

REPORT OF THE REGIONAL JUDICIAL AND LEGAL SERVICES
COMMISSION PURSUANT TO ARTICLE V.10 OF THE AGREEMENT
ESTABLISHING THE CARIBBEAN COURT OF JUSTICE FOR THE
PERIOD AUGUST 20, 2003 TO DECEMBER 31, 2004

TABLE OF CONTENTS

	Page
1. Introduction	3
2. Appointment of Members of the Commission	4
3. Functions of the Commission	12
4. Activities of the Commission	13
5. Appointment of the President of the Court	14
6. Appointment of Judges	16
7. Secretariat of the Commission	21
8. Appointment of Court Administration Staff	22
9. Financing of the Commission	24
10. Projected and Actual Expenditure of the Court and Commission	27
11. Inauguration of the Court	27
12. Accommodation of the Commission and the Court	28
13. Proposals for Amendments to the Agreement	28
14. Draft Code of Judicial Conduct	29
15. Establishment of the Website	29
16. Seal and Logo	29
17. Appreciation of Service rendered in Formative Period	30

Appendices

Appendix A: Interim Report of the Commission

Appendix B: Financial Statement of the Commission

Appendix C: Agreement establishing the Caribbean Court of Justice

Appendix D: Revised Agreement establishing the Caribbean Court of
Justice Trust Fund

I. Introduction

Article V.10 of the Agreement Establishing the Caribbean Court of Justice (the Agreement) provides that "The Commission shall, no later than 31 March in every year, submit to the Heads of Government, an Annual Report of its work and operations during the previous year."

This consolidated report covers a seventeen month period comprising:

1. The initial period of the Commission from August 2003 to December 2003, and
2. The period January 1, 2004 to December 31, 2004.

An Interim Report of the Commission was submitted to the Conference of Heads of Government in March 2004 and a copy of that report is attached as **Appendix A**.

2. Appointment Of Members Of The Commission

The Regional Judicial and Legal Services Commission (RJLSC) is established by Article V.1 of the Agreement which provides that the Commission "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."

Members of the First Commission were appointed on August 20, 2003 for a period of one year in accordance with Article V.2(a) of the Agreement.

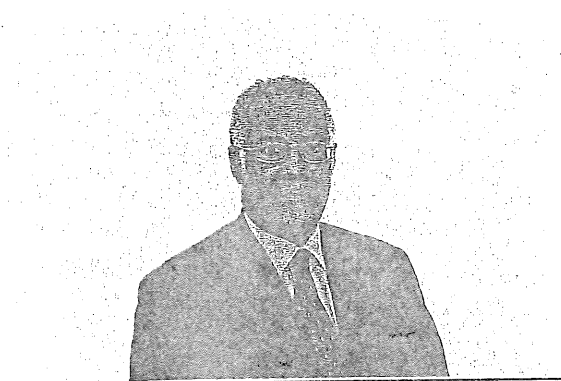
Eight members of the First Commission assumed office on August 21, 2003, one member assumed on September 12, 2003 and the tenth member assumed office on October 10, 2003.

All Commissioners were re-appointed on the expiration of their first year in office, save for Mr. Kenneth Lalla, who retired as Chairman of the Public Service Commission of Trinidad and Tobago at the end of June 2004. Ambassador Christopher R. Thomas replaced Mr. Lalla as Chairman of the Public Service Commission on July 1, 2004 and as a member of the RJLSC on November 26, 2004.

The Commission held its first meeting on August 21 and 22, 2003 and thereafter held monthly meetings.

The following are the persons (apart from the Chairman) who have served as members of the RJLSC:-

Date of Assumption	Name of Commissioner	Qualification for Appointment	Relevant paragraph of Article V.1
August 21, 2003	Sir David Simmons, K.A., B.C.H. <i>(Chairman pro tem)</i>	Chairman Judicial Services Commission of Barbados	(c)
August 21, 2003	Mr. Othniel Sylvester, CMG, Q.C.	Nominated jointly by OCCBA & OECS Bar Associations	(b)
September 12, 2003	Dr. the Hon. Lloyd George Barnett, O.J.		
August 21, 2003	Mr. Kenneth R. Lalla, S.C. <i>(Deputy Chairman pro tem)</i>	Chairman of the Public Service Commission of Trinidad and Tobago	(d)
November 26, 2004	Ambassador Christopher R. Thomas, C.M.T., D. Laws		
August 21, 2003	Ms. Gloria Gray, B.Sc., M.Sc.	Nominated jointly by the Secretary General of the Community and Director General of the OECS	(e)
- ditto -	Ms. Nelcia Robinson, B.Sc.		
August 21, 2003	Professor Aubrey Bishop, OR, CCH, B.Sc., LL.M	Nominated jointly by the Dean of the Faculty of Law of the University of the West Indies, Deans of the Faculties of Law of any of the Contracting Parties and Chairman of the Council of Legal Education	(f)
October 10, 2003	Dr. Magda Hoever-Venoaks, M.Sc., Ph.D.		
August 21, 2003	The Rt. Hon. Sir Vincent Floissac, C.M.G., Q.C.	Nominated jointly by the Bar or Law Associations of the Contracting Parties	(g)
- ditto -	Mr. Allan Alexander, S.C.		



Sir David Simmons, K.A., B.C.H.

Sir David Simmons, a citizen of Barbados, assumed office as the 12th Chief Justice of Barbados on January 1, 2002. He graduated from the London School of Economics and Political Science with the LL.B. degree in 1963 and was awarded the LL.M degree in 1965.

He was appointed Queen's Counsel in 1984 and served continuously for 25 years in the Parliament of Barbados from February 1970 to August 27, 2001. He has served as Attorney General of Barbados from 1985 to 1986 and from September 1994 to August 2001. He also acted as Prime Minister of Barbados.



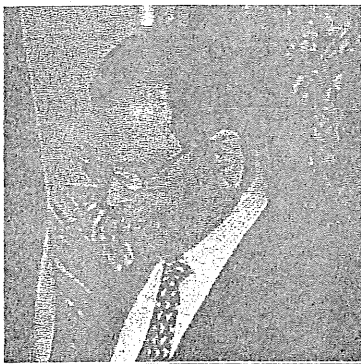
Mr. Othniel Sylvester, C.M.G., Q.C.

Mr. Othniel Sylvester, a native of St. Vincent and the Grenadines, is a practising Barrister-at-law. He graduated from the Inns of Court and was called to the Bar of England in 1958 and to the St. Vincent and the Grenadines Bar in 1959. He was appointed one of Her Majesty's Counsel in 1985 and acted as a High Court Judge of the Eastern Caribbean Supreme Court during the period 2001 to 2002.



Dr. Lloyd Barnett, O.J.

Dr. Barnett, a citizen of Jamaica, is a practising attorney-at-law. He holds the B.A., LL.B, LL.M. and the Ph.D. all from the University of London. He was admitted to the Bar of Lincoln's Inn in 1960. He has served as Crown Counsel in the Chambers of the Attorney General and the Office of the Director of Public Prosecutions. He has also served as President of the Jamaica Bar Association, Chairman of the Jamaica Council of Human Rights and as Vice President and President of the Organisation of Commonwealth Caribbean Bar Associations (OCCBA). In 1999 Dr. Barnett was awarded the Order of Jamaica for his outstanding contribution to jurisprudence and legal education in the Caribbean region.



Mr. Kenneth Lalla, S.C.

Mr. Kenneth Lalla is a citizen of Trinidad and Tobago and an attorney-at-law. He was admitted to practice as a Barrister-at-law in Trinidad and Tobago in 1959 after being called to the Bar in England earlier in the same year. He has served as a temporary Judge of the High Court of Trinidad and Tobago and accepted Silk. He has also served as Chairman of the Public Service Commission, Police Service Commission and the Defence Force Commissions Board and was a member of the Judicial and Legal Service Commission. He is the recipient of the Chaconia Medal Gold of the Order of the Trinity. He served as a member of the RJLSC from August 2003 to June 2004.



Ambassador Christopher R. Thomas, C.M.T., D.Laws

Ambassador Thomas, a citizen of Trinidad and Tobago, is the Chairman of the Public and Police Service Commissions of Trinidad and Tobago. He has served as a graduate teacher, University lecturer, Independent Senator, Permanent Secretary of the Ministry of Foreign Affairs and was Ambassador of Trinidad and Tobago to Venezuela from 1985 to 1990. He was awarded the Chaconia Medal (Gold) and the *Gran Cordon del Libertador* of Venezuela.



Mrs. Gloria Gray, B.Sc., M.Sc.

Mrs. Gloria Gray is a citizen of Trinidad and Tobago. She is the holder of a B.Sc. degree in Sociology from the University of the West Indies and a M.Sc. degree in Sociology with specialization in Social Psychology. Mrs. Gray has worked at the University of the West Indies as a full-time Teaching Assistant in General Psychology, Sociological Theory and Criminology and part-time Teaching Assistant in Sociology.



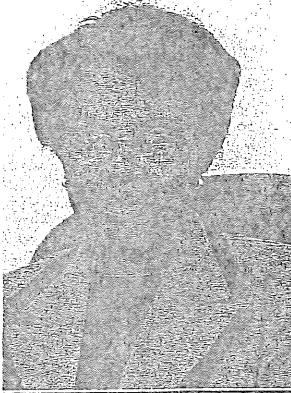
Ms. Nelcia Robinson, B.Sc.

Ms. Nelcia Robinson is a national of St. Vincent and the Grenadines, is of Garifuna descent and is Coordinator of the Caribbean Organisation of Indigenous Peoples. She is also Coordinator of the Caribbean Association for Feminist Research and Action (CAFRA) and of the Caribbean Gender and Trade Network. Ms. Robinson is a Kellogg Fellow and has majored in International Development.



Professor Aubrey Bishop, OR, CCH, B.Sc., LL.M

Professor Bishop is a citizen of Guyana. He was called to the English Bar in July 1963 and practised before the civil and criminal Courts in Guyana. He was elevated to the High Court in 1976, to the Court of Appeal in 1987 and became Chief Justice in 1992. He was appointed Chancellor and Head of the Judiciary in Guyana in 1996. He is the holder of a B.Sc. degree in Industrial Relations and Management and the LL.M. degree. He has been awarded the Cacique's Crown of Honour and the Order of Roraima, the third and second highest awards in Guyana.



Dr. Magda Hoever-Venoaks, M.Sc., Ph.D.

Dr. Hoever-Venoaks, a native of Suriname, is an Associate Professor at the Department of Law at the Faculty of Social Sciences of the University of Suriname. In 1967 she graduated from Teacher Training College and further advanced herself in the fields of Social Work and Management. In 1990 she was awarded her Masters degree in Law and began working as a Lecturer of Administrative Law in the University of Suriname. In 1998 she was awarded the doctoral degree in Administrative Law with regard to Civil Servant Law and in 2000 was appointed Associate Professor in Administrative Law.



Mr. Allan Alexander S.C.

Mr. Allan Alexander is a citizen of Trinidad and Tobago and a barrister-at-law. He was called to the Bar of England and Wales in September 1959 and was admitted to practise law in Trinidad and Tobago in January 1960. He accepted silk in July 1980 and has acted as a Judge of the High Court of Trinidad and Tobago. Mr. Alexander also served as an Independent Senator in the Parliament of Trinidad and Tobago from 1986 to 1991.



The Rt. Hon. Sir Vincent Floissac, C.M.G., Q.C.

The Rt. Hon. Sir Vincent Floissac is a former Chief Justice and President of the Court of Appeal of the Eastern Caribbean Supreme Court. He served in that capacity from November 1991 to July 1996. He practised law in the island of St. Lucia for 37 years and was awarded Silk in 1969, made a member of the Order of the British Empire in 1973, a Commander of the Order of St. Michael and St. George in 1985 and awarded a Knight Bachelorhood in 1992.

3. FUNCTIONS OF THE COMMISSION

The main functions of the Commission are set out in Article V.3 (1) of the Agreement. This Article provides that-

"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 the Agreement."

The Agreement also sets out other functions of the Commission. Such functions include-

- o the exercise of disciplinary control over Judges of the Court, other than the President, and over officials and employees of the Court; Article V.3(2).
- o the making of recommendations to the Heads as to the person to be appointed President and for the removal of the President from office; Article IV.6
- o the determination of the terms and conditions and other benefits of the President and other Judges of the Court with the approval of the Conference of Heads of Government; Article XXVIII.
- o the making of Regulations -
 - o to govern the appointment, discipline, termination of appointment and other terms and conditions of service and employment for Judges, other than the President, and officials and employees of the Court,
 - o to prescribe the procedure governing the conduct of such proceedings, and
 - o generally to give effect to the Agreement. Article XXXI.

The Commission is also given the responsibility under Article 172 of the Revised Treaty of Chaguaramas of appointing the members of the Competition Commission.

4. ACTIVITIES OF THE COMMISSION

Activities of the Commission during the period under review included:

- The selection of the President of the Court;
- The recruitment and appointment of Judges of the Court;
- The drafting of regulations for the Commission;
- The settling of the terms and conditions of the President and Judges of the Court;
- The settling of terms and conditions for Court Administration Staff and support staff;
- Drafting of a Code of Judicial Ethics;
- The determination of the initial staffing requirements of the Court;
- The preparation of the first year budget for the Commission and an interim budget for the Court;
- The appointment of the initial members of the Commission's Secretariat comprising;

POSITIONS
Interim Administrator (part-time)
Executive Secretary
Accounts Clerk
Driver/Messenger

- The recruitment and appointment of the following administrative personnel for the Court comprising;

POSITIONS
Court Executive Administrator
Registrar and Chief Marshal
Financial Comptroller
Information Systems Manager
Chief Law Librarian
Court Protocol and Information Officer
Systems Administrator

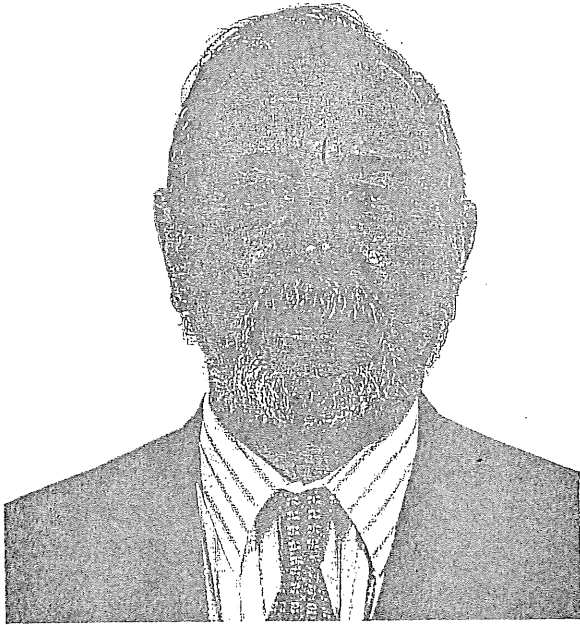
- The recruitment and appointment of secretarial staff for the Court.

5. APPOINTMENT OF THE PRESIDENT OF THE COURT

Article IV.6 of the Agreement provides that "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."

The Commission having determined the process for the selection of the President of the Court and having determined with the approval of the Heads the terms and conditions for the post, advertised regionally and on the Court's website.

Mr. Justice Michael de la Bastide, T.C. who was a former Chief Justice of Trinidad and Tobago, was recommended by the Commission and appointed by the CARICOM Heads of Government. He took the oath of office as President of the Court on August 18, 2004.



The Right Honourable Mr. Justice Michael de la Bastide, TC, a citizen of Trinidad and Tobago obtained the degrees of Bachelor of Arts (Jurisprudence) in 1959 and the Bachelor of Civil Law in 1960. He was called to the Bar in 1961. After working as Crown Counsel in the Office of the Attorney General of Trinidad and Tobago, he entered private practice and was appointed Queen's Counsel in January 1975.

Mr. de la Bastide served as an Independent member of the Senate from 1976 to 1981 and as a member of the Wooding Constitution Commission from 1971 to 1974 and of the Hyatali Commission from 1987 to 1990. He was elected the first President of the Law Association of Trinidad and Tobago and served in that capacity for three terms.

He was appointed Chief Justice of Trinidad and Tobago on May 31, 1995 and awarded Trinidad and Tobago's highest national honour, the Trinity Cross, in 1996.

He was elected an Honorary Bencher of Gray's Inn in November 1996 and created Fellow of the Society for Advanced Legal Studies in 2000. Mr. Justice de la Bastide was sworn in as a member of the Privy Council by her Majesty Queen Elizabeth II on July 27, 2004 and made an Honorary Student [Fellow] of Christ Church Oxford University in January 2005.

6. APPOINTMENT OF JUDGES

Article IV of the Agreement states at paragraphs 10 and 11 that

"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."

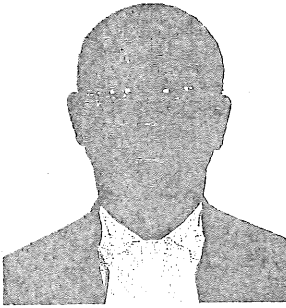
The Commission advertised extensively throughout the Commonwealth and elsewhere inviting applications for the office of Judge of the Caribbean Court of Justice.

Ninety (90) applications were received from which the Commission developed a shortlist of persons whom it interviewed. Eventually the following six (6) persons were chosen to be Judges of the Caribbean Court of Justice.

- the Honourable Mr. Justice Rolston Nelson, a national of Trinidad and Tobago and a Justice of Appeal of the Supreme Court of Trinidad and Tobago;
- Mr. Duke Pollard, a national of Guyana and Director of the Legislative Drafting Facility of CARICOM;
- the Honourable Mr. Justice Adrian Saunders, a national of St. Vincent and Acting Chief Justice of the Eastern Caribbean Supreme Court;
- the Honourable Madame Justice Desiree Bernard, a national of Guyana and Chancellor and Head of the Judiciary of Guyana;
- the Honourable Mr. Justice Jacob Wit, a national of the Netherlands and a Senior Justice of the Joint Court of Justice of the Netherlands Antilles and Aruba.

- Professor David Hayton, a citizen of the United Kingdom and Professor of Law in the University of London.

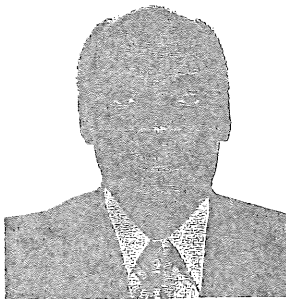
The Commission agreed that the assumption of office by the six Judges chosen should be staggered over the first half of 2005.



The Honourable Mr. Justice Rolston Nelson, a citizen of Trinidad and Tobago, read Modern Languages and Jurisprudence at the University of Oxford. He later specialized in Commercial Law and was awarded the degree of Master of Laws of the University of London. He was called to the Bar of Lincoln's Inn in 1970. In 1973 he was admitted to practise at the Jamaica Bar and worked as a tutor at the Norman Manley Law School.

In 1975 he was admitted to practise at the Trinidad and Tobago Bar and in October 1993 was admitted to the Inner Bar as a senior counsel.

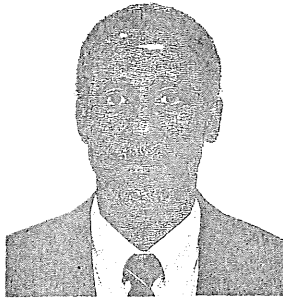
In 1999 he was appointed a Justice of Appeal of the Supreme Court of Trinidad and Tobago directly from the Bar.



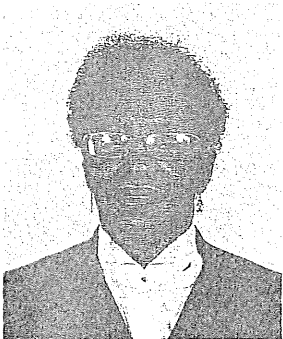
The Honourable Mr. Justice Duke Pollard, is a citizen of Guyana. He obtained the B.A. and LL.B. degrees from the University of London and the Master of Laws degrees from the Mc Gill and New York Universities. He is a Fellow of the Centre for International and Comparative Law of Mc Gill University.

Mr. Justice Pollard has established himself as an expert jurist in international law specializing in International Economic law, the Law of the Sea, International Institutional law, the Law of Treaties, general Integration law and Economic Integration law.

Before his appointment to the Caribbean Court of Justice Mr. Justice Pollard was the Director of the Caricom Legislative Drafting Facility.



The Honourable Mr. Justice Adrian Saunders, a citizen of St. Vincent and the Grenadines, is a graduate of the University of the West Indies and the Hugh Wooding Law School. He was appointed a Judge of the High Court of the Eastern Caribbean States in 1996 and subsequently a Justice of Appeal of the Eastern Caribbean Supreme Court in May 2003. He acted as Chief Justice of the Eastern Caribbean Supreme Court from July 2004 until his elevation to the Bench of the Caribbean Court of Justice.

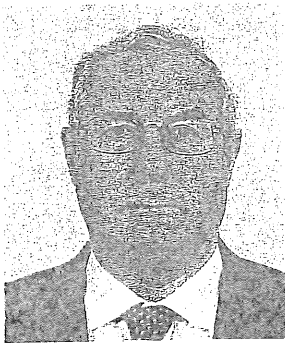


The Honourable Mme. Justice Desiree Bernard, a citizen of Guyana, graduated from the University of London in 1963. After qualifying as a Solicitor she entered into private practice and was subsequently appointed a Magistrate.

She was appointed the first female Judge of the Supreme Court of Guyana in 1980 and the first female Justice of Appeal in 1982, the first female Chief Justice of Guyana and the Commonwealth Caribbean in 1996 and the first female Chancellor of the Judiciary of Guyana and the Commonwealth Caribbean in 2001.



The Honourable Mr. Justice Jacob Wit, a citizen of the Netherlands, obtained the degree of Master of Laws in 1977. He was admitted in 1978 as a judicial trainee at the Training and Study Centre for the Judiciary. In 1984 he was appointed as Deputy Judge and then Judge of the Rotterdam District Court in 1985 and Judge of the Joint Court of Justice of the Netherlands Antilles and Aruba on October 1, 1988. Since that time he has worked as Coordinating Judge, Court of First Instance, Curacao, Coordinating Judge of Instruction, Netherlands Antilles and from 2001 Senior Justice and Acting Chief Justice.

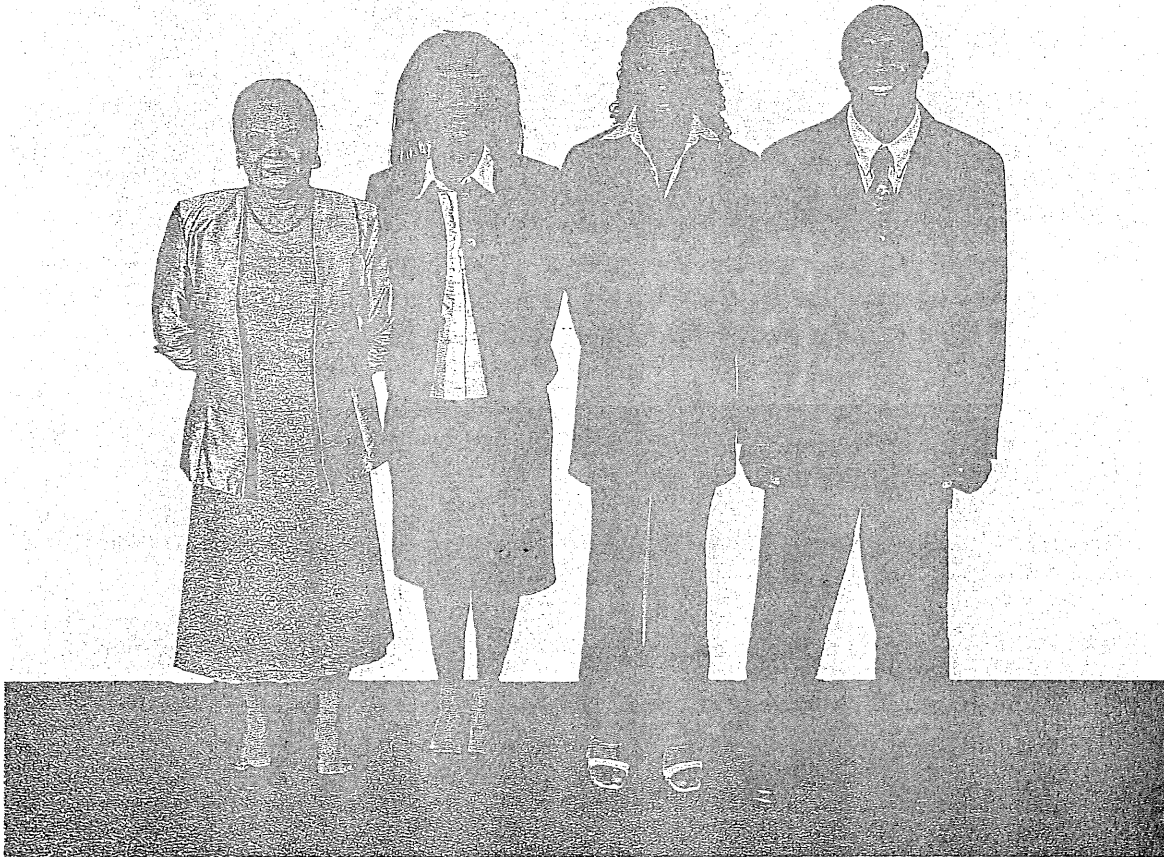


The Honourable Mr. Justice David Hayton, a citizen of the United Kingdom, obtained his LL.B degree in 1966 from Newcastle University. He was called to the Bar in 1968 and practised as a barrister, specializing in domestic and international trusts and succession.

He is the holder of the MA and the LLD and has been Professor of Law at King's College, London University, London since 1987. He sat as Acting Justice of the Bahamas' Supreme Court in 2000 and 2001. He was Dean of King's College Law Faculty 1988-1990 and has written or co-authored eight books in the areas of trusts, property, succession and tax, including the standard practitioner's text, Underhill and Hayton, Law of Trusts and Trustees.

7. THE SECRETARIAT OF THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

The Department of Court Administration of the Judiciary of Trinidad and Tobago assisted the Commission by providing it with secretarial, protocol and other services until the Commission appointed Mrs. Allyson Ramkerrysingh, an attorney-at-law in private practice, on a part time basis as Interim Administrator of the Commission in November 2003. Support staff comprising an executive secretary, Mrs. Mary Barrow, an accounts clerk, Ms. Feli Renwick and a messenger/driver, Mr. Nigel Payne were also recruited for the secretariat



FROM LEFT: MARY BARROW, ALLYSON RAMKERRYSINGH, FELI RNWICK, NIGEL PAYNE

8. APPOINTMENT OF COURT ADMINISTRATION STAFF

Procedure adopted for recruitment of staff

The Commission adopted the following procedure for recruitment of staff

- Job descriptions were prepared and terms and conditions decided by the Commission
- All positions except for the most junior ones were advertised regionally
- Core competencies were determined
- A sub-Committee of the Commission, reviewed applications and interviewed selected candidates
- The sub-Committee reported to the Commission.

Appointment of Staff

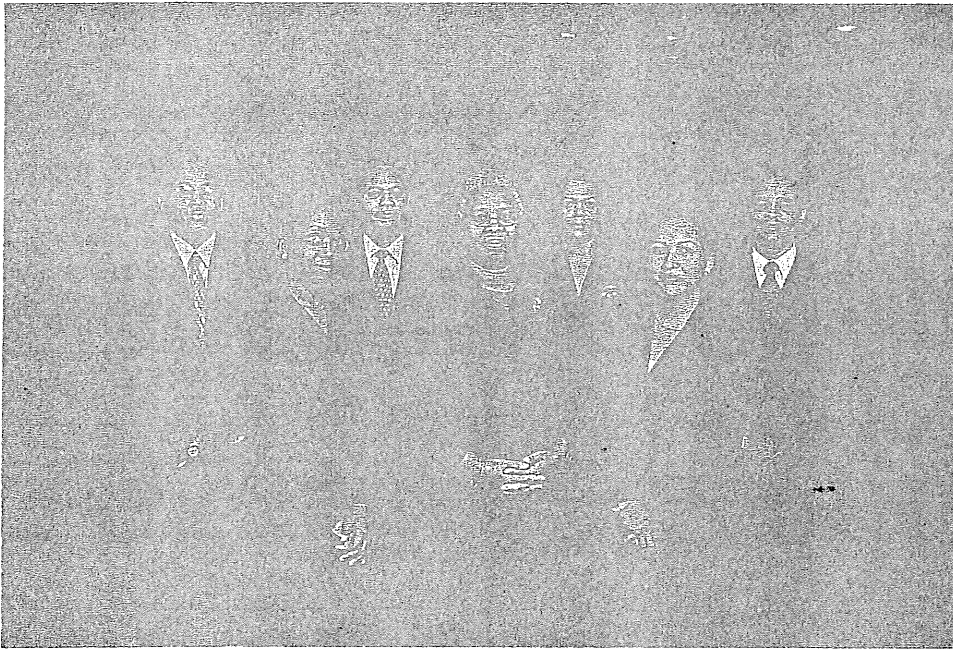
During its recruitment process the sub-Committee sometimes obtained the assistance of consultants and experts in different fields. The Commission retained the firm of Price Waterhouse Coopers to assist in the evaluation of applications. The Commission is grateful to Mrs. Dianne Gittens, Librarian of the Judiciary of Trinidad and Tobago for her help in shortlisting applicants for the post of Chief Librarian and to Professor Velma Newton of the University of the West Indies Cave Hill who accepted an invitation to sit in as an expert during interviews for the post of Chief Librarian.

Based on recommendations made by the sub-Committee, the Commission made appointments to the posts of Court Executive Administrator, Registrar and Chief Marshal, Chief Librarian and Systems Administrator.

The sub-Committee was however authorized and did select persons to fill the posts of Financial Comptroller and Protocol and Information Officer.

The Commission appointed the following persons to Senior Administrative positions with the Court:

Position	Appointee	Citizenship of Appointee
Court Executive Administrator	Master Christie-Anne Morris-Alleyne LLB (UWI), LEC, ICM Fellow	Trinidad and Tobago
Registrar and Chief Marshal	Ms. Paula Pierre LLB (UWI), LEC	Trinidad and Tobago
Financial Comptroller	Mr. Larry Ramoutar B.A., MSc., FCCA, CA	Trinidad and Tobago (recruited from Barbados)
Information Systems Manager	Ms. Carlene Cross	Trinidad and Tobago
Chief Law Librarian	Ms. Jacinth Smith	Barbados
Court Protocol and Information Officer	Chevalier Michael Anthony Lilla, L. es L., Ph. D.	Trinidad and Tobago
Systems Administrator	Mr. Ayinde Burgess	Trinidad and Tobago



Front Row: (From Left) Paula Pierre, Master Christie-Anne Morris-Alleyne, Carlene Cross.
Back Row: (From Left) Ayinde Burgess, Larry Ramoutar, Jacinth Smith, Dr. Michael Lilla.

The following secretaries were appointed by the sub-Committee in 2004:

Appointee	Citizenship of Appointee
Ms. Sandra Cameron	Trinidad and Tobago
Mrs. Jennifer Scipio-Gittens	Trinidad and Tobago
Ms. Sherry-Ann Ramhit	Trinidad and Tobago
Ms. Andrea Sohun	Trinidad and Tobago
Ms. Debra Gibbs	Trinidad and Tobago
Mrs. Sandra Brown	Jamaica (recruited from Montserrat)
Ms. Collette Brown	Jamaica
Ms. Genevieve Gray	Trinidad and Tobago
Ms. Heather Dyer-Thompson	Trinidad and Tobago
Ms. Deborah Williams	Trinidad and Tobago
Ms. Lisa Furlonge	Trinidad and Tobago
Ms. Wendy Mitchell	Guyana
Ms. Annette Clarke	Trinidad and Tobago

9. FINANCING OF THE COMMISSION

In 2003 the Heads of Government approved the establishment of a Trust Fund in the sum of One Hundred Million United States dollars to sustain the Court's operations in perpetuity.

Although the sum of US\$100 million was raised on July 12, 2004 by the Caribbean Development Bank (CDB) it could not be disbursed to the Board of Trustees until all Member States had passed legislation incorporating the Agreement in their domestic law. As a result up to the end of the period under review the Fund had not been transferred to the Trustees.

In the meantime funding was provided by the CARICOM Secretariat, the Government of Trinidad and Tobago and the Government of Japan through the United Nations Development Programme.

The CARICOM Secretariat on November 6, 2003 advanced the sum of US\$74,975 and on May 27, 2004 a further sum of US\$15,873 to cover airfare, per diem allowances and other expenses incurred in connection with the attendance of Commissioners at meetings of the Commission.

In addition, interim financing was obtained from the Government of Trinidad and Tobago in the total sum of US\$1,150,000. This was received in three (3) tranches as follows:

On March 5, 2004	-	US\$ 50,000
On July 13, 2004	-	US\$ 100,000
On September 22, 2004	-	US\$1,000,000

Of the sum received on September 22, 2004, the sum of TT\$5,000,000 was paid over by the Commission to the Board of Trustees for investment pending its utilization by the Court and Commission.

The United Nations Development Program and the Government of Japan, under the UNDP/Japan/CARICOM CCJ Project (RLA/02/006) advanced to CARICOM for the use of the Court and Commission, the sums of US\$75,975 and US\$159,000 on July 12, 2004 and September 27, 2004 respectively.

**Grants and Advances Received to
December 31, 2004**

The following is a listing of Grants and Advances received by the RJLSC as at December 31, 2004

Source	Date Received	US\$	TT\$
Government of Trinidad & Tobago	March 5, 2004	50,000	315,000
Government of Trinidad & Tobago	July 13, 2004	100,000	630,000
Government of Trinidad & Tobago	September 22, 2004	1,000,000	6,300,000
CARICOM	November 6, 2003	74,975	458,847
CARICOM	May 27, 2004	15,873	97,143
UNDP Funds (Japan)	July 12, 2004	75,975	464,967
UNDP Funds (Japan)	September 27, 2004	159,000	973,080
TOTAL		1,475,823	9,239,037

During the period August 1, 2003 to December 31, 2004 out of the total grants and advances received in the amount of US\$1,475,823, US\$793,651 or approximately 54% of the funds received was transferred to the Caribbean Court of Justice Trust Fund. The sum of US\$88,412 was used to pay salaries and administrative expenses of the Court.

The salaries and allowances of the Commission staff and the per diem allowances and expenses of the Commissioners amounted to US\$61,537. The sum of US\$24,626 was spent on fixed assets and the sum of US\$303,779 was spent on recruitment, administrative and Commission expenses. As at December 31, 2004 the Commission held a balance of US\$203,818 in the bank.

10. PROJECTED AND ACTUAL EXPENDITURE OF THE COURT AND COMMISSION

In August 2003 the Commission approved an interim budget in the amount of US\$419,114 for the initial six month period of operations of the Commission.

The Commission also developed a budget for the Court using the following main principles:

1. that the budget be initially limited to one year
2. that staff be appointed in accordance with anticipated workload sufficient to get the job done efficiently
3. that there be maximum use of information technology
4. the Court being a regional court service with the Court must be attractive to Caribbean people and remuneration must therefore be set at rates attractive to all Caribbean people.

The un-audited financial statements of the Commission for the period ending December 31, 2004 are attached as **Appendix B**.

The Commission's accounts are in the process of being audited and the Commission will submit its audited financial statements as soon as they are available.

11. INAUGURATION OF THE CARIBBEAN COURT OF JUSTICE

A High Level Task Force for the Inauguration of the Caribbean Court of Justice was appointed to prepare the Programme of Activities and Events. Sir David Simmons assumed Chairmanship of this Task Force in May 2004.

The Inauguration of the Court was proposed to be held on November 6, 2004 in Trinidad and Tobago but was postponed to the end of March 2005.

12. ACCOMMODATION OF THE COMMISSION AND THE COURT

The first three meetings of the Commission were held at the Hall of Justice, Knox Street, Port of Spain in Trinidad.

The secretariat of the Commission moved into its first home in November 2003 on the First Floor of a small building at 63, Tragarete Road, Port of Spain. This accommodation was rented and furnished by the Government of Trinidad and Tobago.

Space in the Tragarete Road premises was very limited. There was barely room for the original four members of the Commission staff in addition to a conference room for meetings of the Commission. There was no space for the President and his secretary far less for the Judges and court administration staff. As a result new accommodation was urgently required and was provided at the Unit Trust Corporation Financial Centre, 82 Independence Square, Port of Spain, in February 2005. The fifth floor of this building was rented and made available to the Court and Commission by the Government of Trinidad and Tobago.

The Winsure building on Richmond Street in Port of Spain which had originally been earmarked as the temporary home of the Court and the Commission pending the erection by the Government of a suitable building, proved to be, in many respects, unsuitable, and another building (which was privately owned), was identified at No. 134 Henry Street Port of Spain. Architectural plans for the renovation of this building were prepared with a view to its refurbishment for use by the Court.

13. PROPOSALS FOR AMENDMENTS TO THE AGREEMENT

The Commissioners recognised that the Agreement did not make adequate provision for security of tenure of Commissioners. It was felt that the Agreement should prohibit the removal of Commissioners during their tenure except for misbehaviour or inability to perform their duties. By letter dated October 6, 2003 the pro tem Chairman of the Commission therefore wrote to the Chairman of the Preparatory Committee to oversee the establishment of the Court to seek an amendment of the Agreement.

Another amendment of the Agreement was sought in 2004 in order to permit Rules of Court to be made by the President in consultation with two or more Judges instead of the minimum of five required by the Agreement. The rationale for this was to avoid having to appoint as many as five Judges before the Court was fully operational. This amendment was accepted by the Heads of Government towards the end of 2004. Unfortunately the Protocol in which the amendment was incorporated was not ratified in time to achieve the intended purpose of the amendment.

14. DRAFT CODE OF JUDICIAL CONDUCT

A sub-Committee comprising Professor Bishop, Dr. Hoever-Venoaks, Mrs. Gray and Sir Vincent Floissac was formed to examine and comment on the Code of Ethics drafted by Professor Bishop. The draft Code was forwarded to the CARICOM Secretariat for comments and was subsequently adopted by the Commission subject to amendments made by it at its meeting in September 2004.

15. ESTABLISHMENT OF THE WEBSITE

In order to effectively educate people about the business of the Commission and the Court, the Commission, with the help of the Department of Court Administration, established a website – <http://www.caribbeancourtofjustice.org> - and applied for and obtained an email address, rjlsccej@tstt.net.tt.

The website provided information inter alia, on the Draft Rules of Court and the Agreement Establishing the Court. CARICOM Secretariat graciously allowed the Commission to establish a link to its website in order to provide the Commission's website with additional information on the Court and the Commission. The website also proved to be a very useful and cost effective tool in promoting advertisements for vacancies at the Court.

16. SEAL AND LOGO

Article III.5 of the Agreement provides that "*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'.*"

To this end the Commission, at its meeting on September 12, 2003 decided that a regional competition should be held to choose a design for the seal, logo and stationery of the Court.

Regulations for the design of the seal competition were drafted by Commissioner Barnett. The seal competition was won by Brent Matthew and Shawn Chong-Ashing both of Trinidad and Tobago.

The logo competition was won by Mr. Guy O'Neal of Barbados.

17. **APPRECIATION OF SERVICE RENDERED IN FORMATIVE PERIOD**

The Pro tem Chairman

During the period under review the Commission operated in extremely trying conditions in its attempts to carry out its responsibilities under the Agreement. Without the dedication, relentless efforts and strong leadership of Sir David Simmons, its pro tem Chairman, the Commission would not have been as successful as it was in establishing the Court.

The Deputy Chairman

Mr. Kenneth Lalla S.C. was appointed as Deputy Chairman of the Commission and worked tirelessly during his tenure in the service of the Commission.

The Interim Administrator

Mrs. Ramkerrysingh's appointment as the Interim Administrator was on a part time basis. In order to achieve the goals of the Commission in the period under review Mrs. Ramkerrysingh gave unstintingly of her time and expertise as a former Supreme Court Registrar to the Commission.

The Department of Court Administration of the Judiciary of Trinidad and Tobago

As indicated above, this department played an important role in the early days of the Commission by providing certain essential services to the Commission at no cost. The Commission would have found it very difficult to have functioned in the first phase of its existence without the help of this department.

The Commission gratefully acknowledges its indebtedness to the pro tem Chairman, the Deputy Chairman, the Interim Administrator and the members of the Department of Court Administration for their respective services to the Commission.

APPENDICES

Appendix A: Interim Report of the Commission

Appendix B: Financial Statement of the Commission

Appendix C: Agreement establishing the Caribbean Court of Justice

Appendix D: Revised Agreement establishing the Caribbean Court of Justice Trust Fund

APPENDIX A

INTERIM REPORT OF THE COMMISSION

**REGIONAL JUDICIAL AND LEGAL SERVICES
COMMISSION**

INTERIM REPORT

1. Meetings Held

The Commission has met once every month since last August (except for December 2003) and it met twice in February 2004.

2. Budget

During August and September 2003 the Commission developed and settled its budget for the first six (6) months of its operation. Regrettably, the Commission has not yet been able to secure a sustainable line of finance. The CARICOM Secretariat transferred US\$75, 000 to the Commission in November 2003. Those funds were exhausted by the end of February 2004.

However, through the generosity of the Prime Minister of Trinidad and Tobago and, in swift response to an urgent plea from me, the sum of US\$50, 000 was remitted to the Commission to see us through the month of March 2004. Arrangements must now be put in place to provide additional funds to cover expenditures for April and May 2004.

In these months the Commission will incur substantial expenditure in connection with the interviews for candidates for the six posts of Judge of the CCJ and advertising for staff of the Court. Advertising expenses are quite heavy and, although I have used personal international contacts to assist in advertising world-wide at discounted rates or *gratis*, such indulgences cannot be guaranteed in the future.

I hope that Heads may be able to persuade the President of the Caribbean Development Bank, as a matter of the greatest urgency, to transfer interim funds to the Commission (which is a separate juridical entity). He is in possession of a letter from me quantifying the funds needed viz. US\$433, 000 to cover a four-month period.

3. *Appointment of a President, the CCJ*

On 16 March 2004 the Commission interviewed three (3) candidates for the office of President of the CCJ. These were:

- (i) Sir Dennis Byron, Chief Justice of the Eastern Caribbean Supreme Court;
- (ii) Hon. Michael de la Bastide, former Chief Justice of Trinidad and Tobago; and
- (iii) Hon. Henderson Downer, retired Justice of Appeal of Jamaica.

The Commission has made a decision. However, we are not in a position to make a recommendation to Heads of Government at this time because the decision is subject to the candidate's successful passing of a medical examination. The Commission hopes to have that examination completed by 31 March 2004. Thereafter, I shall communicate the Commission's recommendation to Heads of Government.

In the meantime, I must ask that this matter be treated with the utmost confidentiality so as not to contaminate the appointment procedure.

4. *Appointment of other Judges*

The Commission has advertised for six other judges of the CCJ. Applications close on 8 April 2004. When I was last in Trinidad and Tobago, on 17 March, four (4) applications had already been received, including an application from a Canadian. I reasonably expect that we will receive in excess of 10 applications.

As soon as a President is appointed (hopefully in April 2004), we shall proceed to interview short-listed applicants with a view to appointment during the month of May 2004.

5. *Appointment of Support Staff*

The Commission has identified the necessary staff for the Court. We intend to advertise regionally for certain staff but, until we are put in funds to pay for the advertisements, we shall have to "mark time".

6. *The Commission's Offices*

The Commission has received the utmost assistance from the Government of Trinidad and Tobago and the senior staff of the judiciary of Trinidad and Tobago in identifying and equipping its offices at 63 Tragarete Road, Port-of-Spain. Four persons are presently employed and are working exceptionally well.

7. *Library Requirements*

The Commission has established a budget for a library of the CCJ and identified sources for the supply of materials.

8. *Information Technology Requirements*

The Commission has also identified its information technology needs and developed a budget. In the absence of funds, little further progress can be made in respect of the procurement of materials for the library and information technology.

In so far as the European Commission had indicated its willingness to assist in funding the CCJ, I respectfully suggest that items (7) and (8) hereof are matters for which the assistance of the E.C. should be pursued with alacrity.

9. *The Pace of Enabling Legislation*

The Commission has a continuing concern that some Member States have not yet passed necessary legislation to transform the Treaty into domestic legislation or to enact other legislation to vest the *appellate jurisdiction* of the Court in local law. This is a matter that bears upon the perception

of the regional public that the CCJ will replace the Privy Council. It is therefore essential that, such States as are able, take steps to enact the relevant legislation and otherwise constitutionalise the Court.

10. Arrangements for Inauguration

At present there are three (3) groups which can be involved in preparations for the inauguration of the Court. These are: The High Level Task Force, the Preparatory Committee and the Commission.

In addition, the Protocol Department of the Government of Trinidad and Tobago also has a key role to play. Each of these groups is functioning without any coordination of strategy or programme and indeed without proper collaboration *inter se*.

The Commission has therefore taken the decision to bring all of these groups together on 15 and 16 April. The original venue was Trinidad and Tobago but it now appears that Barbados may be more convenient. I take this opportunity to urge Heads to support this meeting by approving attendance of their officials at the meeting. It is important to establish lines of authority and responsibilities at an early date.

11. Date of Inauguration

Although the appointment of judges can be completed by 31 May 2004, assuming the receipt of interim financing, there are other considerations which have to be taken into account before settling a date for inauguration. These include:

- (i) *Giving the Government of Trinidad and Tobago, as host country, adequate time to prepare fully.* It is my understanding that the Government requested 6 months' lead time. Work has started but, I also understand that a July date may be too soon and an early September date is preferred.
- (ii) *Completion of renovation work on the Court building.* I toured the building in February with the Attorney General of Trinidad and Tobago and

his Permanent Secretary. Certain alterations are required of the architectural drawings.

(iii) *Giving reasonable notice to invitees.*

It would be preferable to await the outcome of the meeting of relevant groups in April before forecasting a date. However, having regard to my own observations and bearing in mind all the matters mentioned above, it is my considered opinion that inauguration could reasonably be forecast for late August/early September.

.....

SIR DAVID SIMMONS

Chairman, Regional Judicial and
Legal Services Commission

21 March 2004

APPENDIX B

UNAUDITED FINANCIAL STATEMENTS
OF THE REGIONAL JUDICIAL AND
LEGAL SERVICES COMMISSION

DRAFT

Financial Statements of

**THE REGIONAL JUDICIAL AND LEGAL
SERVICES COMMISSION**

December 31, 2004

THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

DRAFT

Balance Sheet

December 31, 2004

	Notes	2004
Assets		
Non-current assets		
Net fixed assets	1	\$ <u>155,143</u>
Current assets		
Due from related party	2	556,996
Trade and other receivables	3	5,106,054
Cash and cash equivalents		<u>1,284,052</u>
Total current assets		6,947,102
Total assets		\$ <u>7,102,245</u>
Shareholders' Equity and Liabilities		
Shareholders' equity		
Retained earnings		\$ <u>5,870,395</u>
Current liabilities		
Trade and payables	4	28,281
Deferred income -UNDP	5	989,817
Deferred income - Ministry of A.G.		<u>213,752</u>
Total current liabilities		1,231,850
Total shareholders' equity and liabilities		\$ <u>7,102,245</u>

See accompanying notes to financial statements.

On behalf of the Commissioners

_____ Commissioner _____ Commissioner

THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

DRAFT 3

Statement of Income

For the 17 months ended December 31, 2004

	Notes	2004
Revenue	6	\$ 8,272,652
Administrative expenses	7	<u>2,402,257</u>
Surplus of income over expenditure for the period		\$ <u>5,870,395</u>

See accompanying notes to financial statements.

DRAFT

Establishment and Principal activity

The Caribbean Court of Justice (the Court) and the Regional Judicial and Legal Services Commission (the Commission) were established on February 14, 2001 by the Agreement Establishing the Caribbean Court of Justice (the Agreement). The agreement was signed on that date by the following Caribbean Communities (Caricom) states of Antigua & Barbuda, Barbados, Belize, Grenada, Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, Suriname and Trinidad & Tobago. Two further states, Dominica and St. Vincent & The Grenadines, signed the agreement on February 15, 2003, bringing the total number of signatories to 12.

The Court was inaugurated on April 16, 2005 in Port of Spain, Trinidad and Tobago.

The Commission came into force on July 23, 2003 and works to ensure that the Court meets and fully satisfies the expectations and needs of the people it serves. The functions of the Commission include:

- Making appointments to the office of Judge of the Court, other than that of President;
- Making appointments of officials and employees of the Court;
- Determination of the salaries and allowances to be paid to such officials and employees;
- The determination of the terms and conditions of service of officials and employees; and
- The termination of appointments in accordance with the provisions of this Agreement.

The Court is the regional judicial tribunal, designed to be more than a court of last resort for member states of the Caribbean Community. For, in addition to replacing the Judicial Committee of the Privy Council, the Court is vested with an original jurisdiction in respect of the interpretation and application of the Treaty Establishing the Caribbean Community. The Court is designed to exercise both an appellate and an original jurisdiction.

A Caribbean Court of Justice Trust Fund (the Trust Fund) of US\$100 million has been established, the purposes of which shall be to provide the resources necessary to finance the biennial capital and operating budget of the Court and the Commission in perpetuity. The Trust Fund is administered by a Board of Trustees drawn from regional entities.

These financial statements were approved for issue by the Commissioners on XXXXXXXXXX.

THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

Notes to Financial Statements

December 31, 2004

DRAFT⁷

Significant accounting policies

(a) *Statement of compliance*

These financial statements have been prepared in accordance with the International Financial Reporting Standards and its interpretations issued by the International Accounting Standards Board.

(b) *Basis of preparation*

These financial statements have been prepared on the historical cost basis.

(c) *Reporting currency*

These financial statements have been prepared in Trinidad and Tobago dollars.

(d) *Use of estimates*

The preparation of these financial statements requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods.

THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

DRAFT

Notes to Financial Statements

December 31, 2004

Significant accounting policies (continued)

(e) *Fixed assets*

Fixed assets are stated at cost less accumulated depreciation and impairment losses. The Company recognizes in the carrying amount of an item of fixed assets, the cost of replacing part of such an item when that cost is incurred if it is probable that the future economic benefits embodied with the item will flow to the Company and the cost of the item can be measured reliably.

All other costs are recognised in the income statement as an expense as incurred.

Depreciation is charged using the straight line method at the rate of 25% which is designed to write off the cost of the assets over their estimated useful lives:

(f) *Accounts receivable*

Accounts receivable are stated at cost less impairment losses. Impairment losses include any specific provision established to recognize anticipated losses for bad and doubtful debts. Bad debts are written off during the period in which they are identified.

(g) *Cash and cash equivalents*

For the purposes of the statement of cash flows, cash and cash equivalents comprise cash at hand and in bank.

(h) *Trade and other payables*

Trade and other payables are stated at cost.

(i) *Provisions*

A provision is recognised in the balance sheet when the company has a present legal or constructive obligation as a result of a past event, and it is probable that an outflow of economic benefits will be required to settle the obligation. If the effect is material, provisions are determined by discounting the expected future cash flows at a pre-tax rate that reflects current market assessments at the time value of money and, where appropriate, the risks specific to the liability.

(j) *Impairment*

The carrying amounts of the Company's assets, other than fixed assets and inventories, are reviewed at each balance sheet date to determine whether there is any indication of impairment. If such an indication exists, the asset's recoverable amount is estimated.

DRAFT**1. Net Fixed assets**

	Computers	Furniture Fittings and Equipment	Total
Cost			
Cost at August 1, 2003	\$ -	-	-
Additions	15,232	191,625	206,857
Disposals	-	-	-
At December 31, 2004	<u>15,232</u>	<u>191,625</u>	<u>206,857</u>
Accumulated Depreciation			
At August 1, 2003	\$ -	-	-
Depreciation charge for the year	<u>3,808</u>	<u>47,906</u>	<u>51,714</u>
At December 31, 2004	<u>3,808</u>	<u>47,906</u>	<u>51,714</u>
Carrying Amount			
At December 31, 2004	\$ <u>11,424</u>	<u>143,719</u>	<u>155,143</u>

2. Due from related party

Due from related party is comprised of the following:

	2004
The Caribbean Court of Justice	\$ <u>556,996</u>

3. Trade and Other Receivables

	2004
Due from Caribbean Court of Justice Trust Fund	\$ 5,000,000
Due from Caribbean Court of Justice	556,996
VAT Recoverable	102,949
Other Receivables	<u>3,105</u>
	\$ <u>5,663,050</u>

THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

11

Notes to Financial Statements

DRAFT

December 31, 2004

4. Trade and other Payables

	<u>2004</u>
Accounts payable	\$ 14,351
Accruals	<u>13,930</u>
	\$ <u>28,281</u>

5. Deferred Income

	<u>2004</u>
UNDP grant received	\$ 1,438,047
RJLSC expenses agreed by UNDP	<u>(448,230)</u>
UNDP grant available for future expenses	\$ <u>989,817</u>

6. Revenue

	<u>2004</u>
CARICOM grant	\$ 1,004,220
Government of Trinidad and Tobago	7,245,643
Interest income	<u>22,789</u>
	\$ <u>8,272,652</u>

7. Administrative Expenses

	<u>2004</u>
Salaries and allowances	\$ 387,680
Depreciation	51,714
Administrative expenses	258,057
Commission and recruitment expenses	1,688,184
Bank charges	4,622
Audit fees	<u>12,000</u>
	\$ <u>2,402,257</u>

December 31, 2004

8. Financial Instruments

The following summarises the major methods and assumptions used in estimating the fair values of financial instruments.

Trade and other receivables and payables

For receivables and payables with a remaining life of less than one year, the notional amount is deemed to reflect the fair value. All other receivables and payables are discounted to determine the fair value.

APPENDIX C

AGREEMENT ESTABLISHING
THE CARIBBEAN COURT OF JUSTICE

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;

RECOGNISING 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 4 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 re-appointment 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 31 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 thereof 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 PROCEEDINGS

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 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, 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; and
- (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.

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

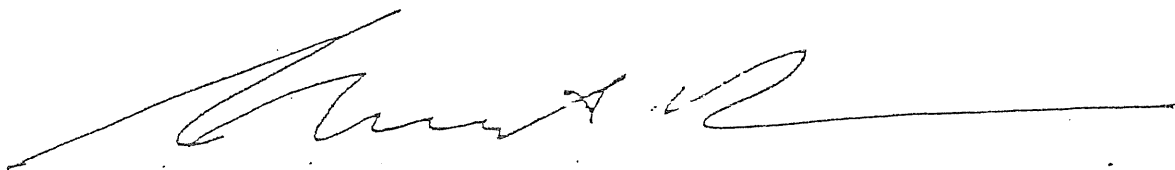
1. *A Contracting Party may withdraw from this Agreement by giving three years' notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect five years after the date on which the notice has been received by the Depositary,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



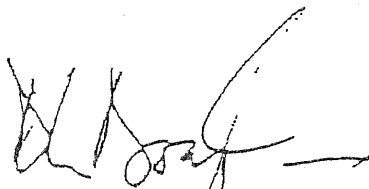
Signed by
for the Government of the Co-operative Republic of Guyana on the 14th
day of February 2001 at St. Michael, Barbados

Signed by
for the Government of Haiti on the day of 2001
at



Signed by
for the Government of Jamaica on the 14th day of February 2001
at St. Michael, Barbados

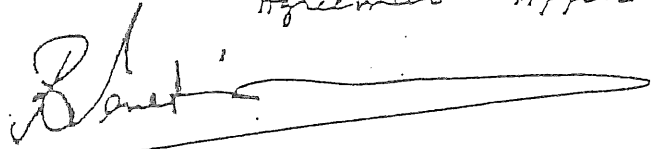
Signed by
for the Government of Montserrat on the day of 2001
at



Signed by
for the Government of St. Kitts and Nevis on the 14th day of February 2001
at St. Michael, Barbados

Signed by Kenny D. Anthony
for the Government of Saint Lucia on the 14th day of February, 2001
at St. Michael, Barbados

Signed by Rolando Ely
for the Government of St. Vincent and the Grenadines on the 15th day
of February 2003 at Port-of-Spain, Trinidad and Tobago — subject to
the reservation in respect of Article XXV of this
Agreement — Appellate Jurisdiction — High Court



Signed by _____
for the Government of The Republic of Suriname on the 14th day of
February, 2001 at St. Michael, Barbados

Signed by Lucretia Rauda
for the Government of The Republic of Trinidad and Tobago on the 14th
day of February 2001 at St. Michael, Barbados

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)).

REVISED AGREEMENT ESTABLISHING THE CARIBBEAN COURT OF JUSTICE TRUST FUND

The Parties to the Agreement Establishing the Caribbean Court of Justice:

Cognisant that the Court is indispensable for the good governance of the Caribbean Community;

Recognising the critical role of the Court in the efficient administration of Justice in the territories of the Contracting Parties to the Agreement establishing the Court;

Recognising further that the Court is vital for the structured and efficient functioning of the CARICOM Single Market and Economy;

Noting the provisions of Article XXVIII of the Agreement establishing the Court which requires the expenses of the Court and the Commission to be borne by the Contracting Parties to the Agreement establishing the Court;

Conscious that the financial viability of the Court is essential for its efficiency, effectiveness and independence in the performance of its functions;

Bearing in mind the decision of the Twenty-Third Meeting of the Conference of Heads of Government of the Caribbean Community concerning the capital and recurrent expenditures of the Court;

Determined to promote and safeguard the independence, integrity and credibility of the Court,

Have agreed as follows:

ARTICLE I INTERPRETATION

1. In this Agreement unless the context otherwise requires:

“Board” means the Board of Trustees of the Fund;

“Commission” means the Regional Judicial and Legal Services Commission established under Article V of the Agreement Establishing the Caribbean Court of Justice;

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

“Fund” means the Caribbean Court of Justice Trust Fund established by Article II of this Agreement;

“Member” means a Contracting Party to the Agreement Establishing the Caribbean Court of Justice and in relation to which this Agreement is in force; and

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

ARTICLE II ESTABLISHMENT OF THE CARIBBEAN COURT OF JUSTICE TRUST FUND

The Caribbean Court of Justice Trust Fund is hereby established.

ARTICLE III PURPOSE OF FUND

The purposes of the Fund shall be to provide the resources necessary to finance the biennial capital and operating budget of the Court and the Commission in perpetuity.

ARTICLE IV RESOURCES OF THE FUND

1. The resources of the Fund shall consist of:
 - (a) the contributions of Members;
 - (b) income derived from operations of the Fund or otherwise accruing to the Fund; and
 - (c) contributions of third parties being contributions which are not likely to prejudice the independence or integrity of the Court.
2. The Fund shall not solicit nor accept any grant, gift or other material benefit from any source except with the consent of all the Members.
3. A State or Territory listed in the Annex to this Agreement:
 - (a) which is a Member on the date this Agreement enters into force; or
 - (b) which accedes to this Agreement within such period as may be determined by the Members,
shall, contribute or cause to be contributed to the Fund the amount of the initial capital of the Fund represented by the scale of contributions set out in the Annex.
4. A State or Territory acceding to this Agreement, other than a State or Territory to which paragraph 3(b) applies, shall make contributions to the Fund in accordance with the provisions set out in its instrument of accession.
5. The Board shall review the adequacy of the resources of the Fund, not later than two years after the entry into force of this Agreement and thereafter at least once within every succeeding biennium.
6. The Board shall communicate the results of the review to the Members.
7. Where upon such a review an inadequacy in resources is found to exist, the Members shall make additional contributions in the proportions reflected in the Annex to this Agreement.
8. Contributions of Members shall be made for the purpose of the Fund without restriction as to use.
9. Financing from the Fund shall be governed by considerations of economy, efficiency and cost

effectiveness and the need to safeguard the independence and sustainability of the Court and the Commission.

ARTICLE V STRUCTURE OF THE FUND

The Fund shall have a Board of Trustees.

ARTICLE VI COMPOSITION OF THE BOARD OF TRUSTEES

1. Subject to the provisions of this Article, the Board of Trustees shall consist of the following or their nominees:
 - (a) The Secretary-General;
 - (b) The Vice-Chancellor of the University of the West Indies;
 - (c) The President of the Insurance Association of the Caribbean;
 - (d) The Chairman of the Association of Indigenous Banks of the Caribbean;
 - (e) The President of the Caribbean Institute of Chartered Accountants;
 - (f) The President of the Organisation of Commonwealth Caribbean Bar Associations;
 - (g) The Chairman of the Conference of Heads of the Judiciary of Member States of the Caribbean Community;
 - (h) The President of the Caribbean Association of Industry and Commerce; and
 - (i) The President of the Caribbean Congress of Labour.
2. There shall be a Chairman and Vice-Chairman of the Board elected by the Board from among its members. The Chairman and Vice-Chairman shall hold office for a period of three years.
3. Where a trustee -
 - (a) resigns or dies;
 - (b) becomes bankrupt or otherwise insolvent;
 - (c) becomes unwilling or refuses to serve as a trustee;
 - (d) is convicted of an offence involving dishonesty; or
 - (e) in the unanimous opinion of the other members of the Board, becomes unfit or incapable to act as such, the competent institution shall nominate a person of comparable status or experience to act in place of that trustee.
4. Where an institution fails to nominate a trustee in accordance with paragraph 3 or an institution

mentioned in paragraph 1 ceases to exist, the Secretary-General may designate a person or persons, as the case may require, to act as a trustee.

5. Where more than three designations by the Secretary-General are required to make up the full complement of the Board of Trustees, the Members may, by consensus, propose an amendment to the Agreement in accordance with Article XIII.

6. A trustee may resign by transmitting a written notice in that behalf to the Chairman of the Board. Where the Chairman wishes to resign from the office of Chairman or Trustee, such notice shall be transmitted to the Vice-Chairman of the Board.

ARTICLE VII FUNCTIONS OF THE BOARD

1. The Board shall be responsible for directing the operations of the Fund, and, for this purpose shall, in particular, exercise the following functions:

- (a) evaluate the performance of the Fund;
- (b) establish with the approval of the Members guidelines for prudential investment of the resources of the Fund;
- (c) establish with the approval of the Members the financial regulations of the Fund;
- (d) appoint the Executive Officer of the Fund;
- (e) authorise the provision of resources required for the biennial capital and operating budget of the Court and the Commission submitted by the Executive Officer;
- (f) appoint an investment manager or managers to manage the investments of the Fund in accordance with the investment guidelines for the Fund;
- (g) approve the annual report on the performance of the Fund for transmission to the Members;
- (h) approve the capital and operating annual budget of the Fund;
- (i) appoint an external Auditor of the Fund;
- (j) submit an annual report to the Members, and
- (k) perform such other functions as may be necessary or appropriate for the operations of the Fund.

2. The Board may exercise such powers and establish such rules as may be necessary or appropriate in furtherance of its purpose and functions consistent with this Agreement.

ARTICLE VIII PROCEDURES OF THE BOARD

1. The Board shall hold two regular meetings each year and may hold such other meetings as the Board considers necessary.
2. The Board shall elect a Chairman and one Vice-Chairman at its first regular annual meeting.
3. Each member of the Board shall have one vote.
4. A simple majority of the members of the Board shall constitute the quorum for any meeting of the Board.
5. Subject to paragraph 6 of this Article the Board shall take decisions by consensus. A proposal shall be deemed to have been adopted by consensus if no member of the Board raised a formal objection against it during the meeting.
6. Where the Chairman of the Board determines that a decision cannot be reached by consensus, the Chairman shall submit the matter to a vote. In such a case the Board shall take its decision by a majority of two-thirds of its members.
7. Subject to this Agreement, the Board may adopt its own rules of procedure.

ARTICLE IX THE SEAL OF THE FUND

1. The Fund shall have and use as occasion may require, a Seal having a device or impression with the inscription "Caribbean Court of Justice Trust Fund."
2. The Seal of the Fund shall be kept in the custody of the Executive Officer and shall be affixed to documents pursuant to a resolution of the Board in the presence of the Chairman of the Board and the Executive Officer.
3. The Seal shall be authenticated by the signatures of the Chairman of the Board and the Executive Officer.

ARTICLE X FUNCTIONS OF THE EXECUTIVE OFFICER

The Executive Officer shall report to the Board and shall be invited to participate in all its meetings, except where the Board considers it inexpedient, having regard to the matters on the agenda for any meeting. The Executive Officer shall:

- (a) prepare and submit to the Board the capital and operating annual budget of the Fund;
- (b) manage the day-to-day operations of the Fund;
- (c) employ staff and engage the services of consultants;
- (d) prepare and submit to the Board for submission to the Members:
 - (i) a quarterly report on the performance of the Fund;

- (ii) an annual report on the operations of the Fund.
- (e) submit to the Board a statement of receipts and expenditures relating to the Fund during the preceding fiscal year as audited by the External Auditor;
- (f) represent the Fund in relation to third parties; and
- (g) perform any other functions as may be assigned by the Board from time to time.

**ARTICLE XI
JURIDICAL PERSONALITY AND LEGAL CAPACITY**

1. The Fund shall possess full juridical personality and in particular capacity to:
 - (a) contract;
 - (b) acquire and dispose of immovable and moveable property; and
 - (c) institute legal proceedings.
2. The principal office of the Fund shall be located in Trinidad and Tobago.
3. The Fund shall conclude an agreement with the Government of Trinidad and Tobago on the status, privileges and immunities of the Fund. The agreement shall be approved by the Board, and signed by the Chairman.

**ARTICLE XII
PRIVILEGES AND IMMUNITIES**

1. To enable the Board and Officers of the Fund to fulfill the functions with which it is entrusted, status, immunities and privileges provided in this Article shall be accorded to the Fund in the territory of each Member.
2. The Fund shall enjoy immunity from every form of legal process. Its property and assets, wheresoever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution.
3. The archives of the Fund shall be inviolable.
4. To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.
5. The official communications of the Fund shall be accorded by each Member the same treatment that it accords to the official communications of other Members.
6. The Fund, its assets, property, income and its operations and transactions, shall be exempt from all taxation, all customs duties on goods imported for its official use and all other imposts.
7. Notwithstanding the provisions of paragraph 6 of this Article, the Fund will not claim exemption from imposts that are no more than charges for public utility services.

8. Where the Fund has paid any duties, taxes or other imposts, the Members shall make appropriate administrative arrangements for the remission or return of the amount of duty, tax or imposts paid.

9. Articles imported under an exemption from customs duties as provided by paragraph 6 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 8, shall not be sold in the territory of the Member which granted the exemption, remission or return except under conditions agreed with that Member.

10. No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to members of the Board or other officers, but Members reserve the right to tax their own citizens or nationals or persons permanently resident in the territories of such Members.

11. All officers of the Fund:

(a) shall be exempt from the payment of income taxes except where that officer is a citizen, permanent resident or national of the State granting the exemption;

(b) shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange control restrictions, as are not less favourable than those accorded by the Member concerned to the representatives, officials and employees of comparable rank of any other Member;

(c) shall be given such repatriation facilities in time of international crisis as are not less favourable than those accorded by the Member concerned to the representatives, officials and employees of comparable rank of any other Member.

12. The Trustees:

(a) shall be immune from all legal process in respect of the lawful discharge of their responsibilities under this Agreement;

(b) shall be accorded immunities from immigration restrictions and such facilities as would ensure the proper discharge of their functions.

13. The immunities, exemptions and privileges provided in this Article are granted in the interests of the Fund. The Board may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in this Article in cases where such action would, in its opinion, be appropriate in the best interests of the Fund.

14. The Executive Officer shall have the right and the duty to waive any immunity, exemption or privilege in respect of any other officer where, in his opinion, the immunity, exemption or privilege would impede the course of justice and can be waived without prejudice to the interests of the Fund. In similar circumstances and under the same conditions, the Board shall have the right and duty to waive any immunity, exemption or privilege respecting the Executive Officer, and in the case of members of the Board, the Members shall waive such immunity.

15. The Members shall take such action as is necessary in their own territories for the purpose of

making effective in terms of their law the principles set forth in this Article and shall inform the Fund of the detailed action which they have taken.

ARTICLE XIII AMENDMENT

Any Member may submit to the Board a proposal to amend a provision of this Agreement. The Board shall promptly submit the proposal to all other Members. The amendment shall take effect on the thirtieth day following the date on which the Secretary-General (hereinafter referred to as "the Depository") has received the approval of three-quarters of the Members.

ARTICLE XIV SIGNATURE

This Agreement shall be open for signature until 31st March 2004, by the States and Territories listed in the Annex hereto.

ARTICLE XV ENTRY INTO FORCE

This Agreement shall enter into force upon signature by any ten (10) of the States or Territories listed in the Annex hereto.

ARTICLE XVI RESERVATIONS

No reservations may be entered in respect of any provision of this Agreement.

ARTICLE XVII ANNEX

The Annex to this Agreement shall constitute an integral part of this Agreement.

ARTICLE XVIII ACCESSION

1. Any Member State of the Caribbean Community or any State or Territory invited by Conference to participate in the Court may become a Member by acceding to this Agreement on terms and conditions agreed between it and the Fund. Accession shall be effected by the deposit of an instrument of accession approved by the Board. This Agreement shall enter into force for the acceding State or Territory on the thirtieth day following the date on which its instrument of accession was deposited with the Depository.

2. Where a State or Territory, other than a State or Territory to which paragraph 3(b) of Article IV applies, accedes to this Agreement and undertakes to discharge its financial obligations to the Trust Fund the Annex shall be amended accordingly.

ARTICLE XIX WITHDRAWAL

1. Where a Member withdraws from the Agreement Establishing the Caribbean Court of Justice, such a Member shall be deemed to have withdrawn from this Agreement with effect from the date of that Member's withdrawal from the Agreement establishing the Caribbean Court of Justice.
2. A Member withdrawing from this Agreement shall honour all obligations assumed by it before the effective date of its withdrawal.

**ARTICLE XX
DEPOSITARY AND REGISTRATION**

1. This Agreement shall be deposited with the Depository.
2. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Monterrey, Mexico this 12 day of January two thousand and four , in a single copy, in the English Language.

Signed by for the Government of Antigua and Barbuda
on theday of200 .. at

Signed by The Rt. Hon. Owen Arthur, Prime Minister, for the Government of Barbados
on the 13 day of January 2004 at Monterrey, Mexico

Signed by Hon. Said W. Musa, Prime Minister, for the Government of Belize on the 12 day of January
2004
at Monterrey, Mexico

Signed by Hon. Roosevelt Skerrit, Prime Minister, for the Government of the Commonwealth of
Dominica
on the 16 day of January 2004 at Roseau, Dominica

Signed by Dr. the Hon. Keith Mitchell, Prime Minister, for the Government of Grenada
on the 17 day of January 2004 at Roseau, Dominica

Signed by H.E. Bharrat Jagdeo, President, for the Government of the Co-operative Republic of Guyana
on the 27 day of January 2004, at Georgetown, Guyana

Signed byfor the Government of the Republic of Haiti on the day
of 200.. at

Signed by The Rt. Hon. Percival J. Patterson, Prime Minister, for the Government of Jamaica
on the 13 day of January 2004 at Monterrey, Mexico

Signed byfor the Government of Montserrat
on the day of 200.. at

Signed by Hon. Dr. Denzil L. Douglas, Prime Minister, for the Government of St. Kitts and Nevis on the 13 day of January 2004 at Monterrey, Mexico

Signed by Dr. the Hon, Kenny D. Anthony, Prime Minister, for the Government of Saint Lucia on the 17 day of January 2004 at Roseau, Dominica

Signed by Dr. the Hon. Ralph E. Gonsalves, Prime Minister, for the Government of St. Vincent and the Grenadines on the 13 day of January 2004 at Monterrey, Mexico

Signed by H.E. Dr. Rinaldo R. Venetiaan, President, for the Government of the Republic of Suriname on the 13 day of January 2004 at Monterrey, Mexico

Signed by Hon. Patrick A.M. Manning, Prime Minister, for the Government of the Republic of Trinidad and Tobago on the 21 day of January 2004 at Nassau, The Bahamas

ANNEX

CONTRIBUTION OF THE MEMBERS OF THE TRUST FUND

MEMBERS	PER CENT SHARE
Antigua and Barbuda	2.11
Barbados	12.77
Belize	3.44
Dominica	2.11
Grenada	2.11
Guyana	8.33
Haiti	1.68
Jamaica	27.09
Montserrat	0.42
St. Kitts and Nevis	2.11
Saint Lucia	2.11
St. Vincent and the Grenadines	2.11
Suriname	3.92
Trinidad and Tobago	29.73
Total	100.00