

No. 5]

*Caribbean Court of Justice
(Agreement) (Amendment) Act*

[2005.

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

17th December, 2004.

SAINT LUCIA

No. 5 of 2005

AN ACT to amend the Caribbean Court of Justice (Agreement) Act
No. 34 of 2003.

[10TH JANUARY, 2005]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with
the advice and consent of the House of Assembly and the Senate of Saint
Lucia, and by the authority of the same, as follows :

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Short title

1. This Act may be cited as the Caribbean Court of Justice (Agreement) (Amendment) Act, 2005.

Interpretation

2. In this Act “principal Act” means the Caribbean Court of Justice (Agreement) Act No. 34 of 2003.

Amendment of section 2

3. Section 2 of the principal Act is amended by inserting the definition of the following words in their appropriate alphabetical order —

- (a) “Privileges and Immunities” means the Protocol on the Privileges and Immunities of the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission the text of which is set out in the Third Schedule;
- (b) “Protocol” means the Protocol to the Agreement Establishing the Caribbean Court of Justice the text of which is set out in the Second Schedule;
- (c) “Trust Fund” means the revised agreement establishing the Caribbean Court of Justice Trust Fund the text of which is set out in the Fourth Schedule;”.

Addition of Schedules

4. The principal Act is amended in the Schedule by —

- (a) adding the word “FIRST” before the word “SCHEDULE”;
and
- (b) adding the following SECOND SCHEDULE, THIRD SCHEDULE and FOURTH SCHEDULE:

“SECOND SCHEDULE

(Section 2)

**PROTOCOL TO THE AGREEMENT ESTABLISHING THE CARIBBEAN
COURT OF JUSTICE RELATING TO THE JURIDICAL PERSONALITY AND
LEGAL CAPACITY OF THE COURT***The Contracting Parties:*

Noting that the Agreement Establishing the Caribbean Court of Justice (hereinafter referred to as “the Agreement”) entered into force on 23 July 2002;

Conscious that Article VI of the Agreement confers on the Regional Judicial and Legal Services Commission (hereinafter referred as “the Commission”) full juridical personality, including, in particular, full capacity to contract;

Aware that the Government of Trinidad and Tobago, the Contracting Party in whose territory the Seat of the Caribbean Court of Justice (hereinafter referred to as “the Court”) is situated, in accordance with Article III (4) of the Agreement, intends to conclude an Agreement relating to the Seat of the Court and the Headquarters of the Commission;

Desirous of conferring on the Court full juridical personality and legal capacity,

Have Agreed as follows:

ARTICLE I**JURIDICAL PERSONALITY AND
LEGAL CAPACITY OF THE COURT**

1. The Court shall have full juridical personality.
2. Each Contracting party to the Agreement shall, in its territory, accord to the Court the most extensive legal capacity accorded to legal persons under its municipal law.
3. In any legal proceedings, the Court shall be represented by the Registrar of the Court.
4. Each Contracting Party to the Agreement shall take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretary-General of the Caribbean Community of such action.

ARTICLE II

**PRIVILEGES AND IMMUNITIES
OF THE COURT AND THE COMMISSION**

The President of the Court shall conclude with the Government of Trinidad and Tobago an Agreement relating to the Seat of the Court and the Headquarters of the Commission setting out, inter alia:

- (a) the terms respecting the facilitation of the administration and operation of the Court and the Commission; and
- (b) the privileges and immunities to be accorded to the Commission and its members, the Court, the Judges and officers of the Court, parties, their counsel and other persons required to appear before the Court.

ARTICLE III

**RELATIONSHIP BETWEEN THIS PROTOCOL
AND THE AGREEMENT**

This Protocol shall be read as one with the Agreement.

ARTICLE IV

SIGNATURE

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

ARTICLE V

ENTRY INTO FORCE

This Protocol shall enter into force on signature by the Contracting Parties to the Agreement.

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ARTICLE VI

ACCESSION

1. Any Contracting Party to the Agreement may accede to this Protocol.

2. Instruments of accession shall be deposited with the Secretary-General who shall transmit certified copies to the Governments.

IN WITNESS WHEREOF the undersigned representatives, being duly authorised by their respective Governments or Institutions, have signed this Protocol.

DONE at _____ on the _____ day of _____ 2003

Signed by
for the Government of Antigua and Barbuda on the _____ day of
2003 _____ at _____

Signed by
for the Government of Barbados on the _____ day of
2003 _____ at _____

Signed by
for the Government of Belize on the _____ day of
2003 _____ at _____

Signed by
for the Government of the Commonwealth of Dominica on the _____ day of
2003 _____ at _____

Signed by
for the Government of Grenada on the _____ day of
2003 _____ at _____

Signed by
for the Government of the Cooperative Republic of Guyana on the
day of _____ 2003
at _____

THIRDSCHEDULE

(Section 2)

**PROTOCOL ON THE STATUS, PRIVILEGES AND IMMUNITIES
OF THE CARIBBEAN COURT OF JUSTICE AND THE REGIONAL
JUDICIAL AND LEGAL SERVICES COMMISSION****PREAMBLE****The Contracting Parties**

Noting that the Agreement Establishing the Caribbean Court of Justice entered into force on 23 July 2002;

Recognising that paragraph 2 of Article VII of the Agreement Establishing the Caribbean Court of Justice (hereinafter referred to as “the Agreement”) provides that the privileges and immunities to be accorded the Regional Judicial and Legal Services Commission shall be laid down in a Protocol to the Agreement;

Conscious that Article XXX of the Agreement also provides that the privileges and immunities to be recognised and granted by the Contracting Parties thereto to the judges and officers of the Court necessary to protect their independence and impartiality, shall be laid down in a Protocol to the Agreement; and

Desirous of establishing conditions to safeguard the independence and integrity of the judges and officers of the Caribbean Court of Justice (hereinafter referred to as “the Court”) and the Members of the Regional Judicial and Legal Services Commission,

Have agreed as follows:

ARTICLE I**USE OF TERMS**

In this Protocol, unless the context otherwise requires:

“archives of the Court or the Commission” includes the records, correspondence, documents, manuscripts, photographs, slides, films, sound recordings and electronic storage devices belonging to or held by the Court or the Commission;

“**Commission**” means the Regional Judicial and Legal Services Commission established by Article V of the Agreement;

“**competent Authorities**” means national, regional or local authorities of the Contracting Parties as may be appropriate in the context and in the laws of the Contracting Parties;

“**Conference**” means the Conference of Heads of Government of the Member States of the Caribbean Community;

“**Contracting Party**” means a state in relation to which this Protocol is in force;

“**counsel**” means a person qualified to conduct proceedings before the Court on behalf of another;

“**the Court**” means the Caribbean Court of Justice established by Article III of the Agreement;

“**the Government**” means the Government of a Contracting Party to this Protocol;

“**officers of the Court**” means the Registrar of the Court and the Deputy Registrar;

“**the President**” means the President of the Court;

“**property**” means all forms of property, including funds and assets belonging to or held or administered by the Court or the Commission and all income accruing to the Court or the Commission;

“**Registrar**” means the Registrar of the Court;

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

ARTICLE II

PROPERTY FUNDS AND ASSETS OF THE COURT AND THE COMMISSION

1. The Court, the Commission, their property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case such immunity has been expressly waived in accordance with Article X. No waiver of immunity shall extend to any measure of execution.

2. The property of the Court and the Commission, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference whether by executive, administrative or judicial action.

ARTICLE III

PREMISES OF THE COURT AND THE COMMISSION

1. The premises occupied by the Court or the Commission shall be inviolable.

2. The President may make regulations relating to the premises mentioned in paragraph 1 of this Article for the purpose of establishing therein conditions necessary for the full execution of the functions of the Court or the Commission, as the case may be.

3. Officials of the Government shall not enter the premises referred to in this Article to perform any official duties therein except with the consent of and under conditions agreed by the President. However, in case of fire or other emergency requiring prompt protective action or in the event that officials of the Government have reasonable cause to believe that such an emergency has occurred, the consent of the President to entry on the premises by the officials of the Government shall be presumed if the President cannot be reached in time.

ARTICLE IV

ARCHIVES OF THE COURT AND THE COMMISSION

The archives of the Court and the Commission, and in general all documents belonging to or held by the Court or the Commission, shall be inviolable wherever located.

ARTICLE V

EXEMPTION FROM FOREIGN EXCHANGE CONTROLS

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Court and the Commission shall be entitled for their official use only:

- (a) to purchase from authorised dealers, hold and make use of negotiable currencies, operate foreign currency and external accounts and purchase through authorised dealers, hold and make use of funds and securities;

- (b) to freely transfer their funds, securities and foreign currencies to or from the territory of any Contracting Party and to convert any currency held by them into any other currency.

2. The Court and the Commission, in exercising their rights under paragraph 1 of this Article, shall pay due regard to any representations made by the Government and shall give effect to such representations so far as this is possible without detriment to the interests of the Court or the Commission.

ARTICLE VI

EXEMPTION FROM TAXES, CUSTOMS DUTIES AND IMPORT OR EXPORT DUTIES

1. The Court and the Commission shall be exempt from:

- (a) any form of direct or indirect taxation, but the Court or the Commission shall not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) customs duties and prohibitions and restrictions on imports in respect of articles imported or exported by the Court or the Commission for their official use, subject to the condition that articles imported under such exemption shall not be sold within the territory of the Contracting Party except under conditions agreed to with the Government;
- (c) customs duties and other levies and prohibitions and restrictions in respect of the import, sale and export of their publications.

2. For the purposes of this Article, "indirect taxation" means airport departure or travel tax, travel ticket tax, hotel and restaurant taxes, customs and excise duties, consumption tax, stamp duties, withholding tax on interest, value added tax, finance charges and imposts with equivalent effect.

ARTICLE VII

FACILITIES IN RESPECT OF COMMUNICATIONS

1. The Court and the Commission shall, in relation to their official communications, enjoy in the territory of the Contracting Party, treatment no less favourable than that accorded by the Government to any other international organisation.

2. The Court and the Commission shall be immune from censorship of their official correspondence and official communications.

3. The Court and the Commission shall have the right to use codes and to despatch and receive correspondence whether by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

4. Nothing in this Article shall be construed so as to preclude the adoption of appropriate security measures in the interest of the Government concerned.

ARTICLE VIII

JUDGES AND OFFICERS OF THE COURT AND MEMBERS OF THE COMMISSION

1. Judges and officers of the Court and members of the Commission engaged in the business of the Court or the Commission, as the case may be, in the territory of a Contracting Party, shall enjoy:

- (a) immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned have ceased to exercise their functions with the Court or the Commission;
- (b) immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (c) inviolability of all papers, documents and materials related to the work of the Court or the Commission as the case may be;
- (d) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (e) the same protection and repatriation facilities in times of international crisis as are accorded representatives of foreign governments on temporary official missions;
- (f) the right, for the purpose of all communications with the Court or the Commission, as the case may be, to use codes and to despatch or receive papers, correspondence or other official material by courier or in sealed bags;
- (g) the same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (h) immunity from inspection and seizure of personal and official baggage except in cases where the person is caught in flagrante delicto. In such cases, the competent authorities shall immediately inform the Registrar or other appropriate official of the Court. Inspection of

personal baggage shall be conducted in the presence of the person concerned or his authorised representative, and in the case of official baggage, in the presence of a duly authorised representative of the Registrar;

- (i) exemption from any form of direct taxation on salaries, remuneration and allowances paid by the Court or the Commission and from customs duties on imports in respect of articles imported for personal use, subject to the condition that articles imported under such exemption shall not be sold within the territory of the Contracting Party except under conditions determined by the Government.

ARTICLE IX

COUNSEL APPEARING IN PROCEEDINGS BEFORE THE COURT

1. Counsel appearing in proceedings before the Court while present in the territory of a Contracting Party shall, in the performance of their functions connected with such proceedings, enjoy:

- (a) inviolability of all papers, documents and materials relating to the proceedings before the Court;
- (b) immunity from personal arrest or detention and legal process in relation to words spoken or written or acts performed by them in relation to proceedings before the Court;
- (c) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (d) the same privileges and facilities in respect of currency and exchange restrictions in relation to proceedings before the Court as are accorded to representatives of foreign governments on temporary official missions.

2. The immunity mentioned in paragraph 1(a) and (b) shall continue although the person entitled is no longer conducting proceedings before the Court.

3. The privileges, immunities and facilities mentioned in this Article are only intended to assist Counsel in the efficient representation of clients in proceedings before the Court and shall not be employed to circumvent applicable laws and regulations of the Government.

ARTICLE X

CO-OPERATION WITH COMPETENT AUTHORITIES

1. Privileges and immunities are recognised and granted by this Protocol in the interest of the Court and the Commission and not for the personal benefit of persons entitled thereto. The Conference in the case of the President and the President in the case of other persons entitled thereto, shall have the right to waive such privileges and immunities whenever in their opinion the enjoyment of the privileges and immunities would impede the course of justice and could be waived without prejudice to the interests of the Court or the Commission.

2. The President and the Registrar, as the case may be, shall co operate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of the laws and regulations of the Government and to avoid the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Protocol.

3. Without prejudice to the privileges and immunities accorded by this Protocol, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Government and not to interfere in the internal affairs of the Contracting Party.

4. If the Government considers that an abuse has occurred in the enjoyment of any privilege or immunity conferred by this Protocol, the Registrar shall, at the request of the Government, consult with the competent authorities to determine whether such an abuse has occurred. If such consultations fail to achieve results satisfactory to the Registrar and the Government, the issue shall be settled in accordance with the procedure laid down in Article XII.

ARTICLE XI

FACILITATION OF TRAVEL

1. Subject to the laws or regulations restricting entry or movement for reasons of national security, the Contracting Party shall extend all facilities for the uninterrupted passage within its territory as well as for the entry and departure therefrom of the categories of persons mentioned below:

- (a) judges of the Court and members of their families forming part of their households;
- (b) officers of the Court and members of their families forming part of their households;

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- (c) members of the Commission;
- (d) counsel and their clients appearing in proceedings before the Court;
- (e) persons appearing in proceedings before the Court;
- (f) persons other than officers of the Court performing missions for the Court and members of their families forming part of their households; and
- (g) other persons invited to the Seat of the Court or the offices of the Commission on official business.

2. The Registrar shall communicate to the Government the names of the persons mentioned in paragraph 1 of this Article.

3. This Article shall not be applicable in case of a general interruption of transportation and shall not impede the effective application of laws in force nor waive the reasonable application of quarantine and health regulations.

4. Visas required by persons referred to in paragraph 1 of this Article shall be granted by the Government expeditiously and free of charge.

ARTICLE XII

SETTLEMENT OF DISPUTES

1. The President shall make appropriate provisions for the settlement of:

- (a) disputes arising out of contracts and other disputes of a private law character to which the Court or the Commission is a party;
- (b) disputes involving any judge or officer of the Court or Counsel conducting proceedings before the Court enjoying immunity if such immunity has not been waived by the persons empowered in that behalf.

2. Any difference between the Government and the Court or the Commission arising out of the interpretation or application of this Protocol and which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a Tribunal of three arbitrators at the instance of any Contracting Party to this Protocol: one to be appointed by the Government, one to be appointed by the Registrar, and the third, who shall be the Chairman of the Tribunal, to be chosen by the first two arbitrators.

3. If any of the parties fails to appoint an arbitrator within six weeks of the decision to resort to arbitration, an arbitrator or arbitrators, as the case may be, shall be appointed for such purposes by the Secretary General.

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4. If the first two arbitrators within three weeks of their appointment fail to agree upon the third arbitrator, the Government or the Registrar shall request the Secretary General to appoint the third arbitrator.

5. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding.

6. The Chairman shall be empowered to settle all questions of procedure in any case where there is disagreement between the other arbitrators in respect thereto.

ARTICLE XIII

SIGNATURE

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

ARTICLE XIV

ENTRY INTO FORCE

This Protocol shall enter into force immediately upon signature by at least three Contracting Parties to the Agreement.

ARTICLE XV

ACCESSION

1. Any Contracting Party to the Agreement may accede to this Protocol.

2. Instruments of accession shall be deposited with the Secretary-General who shall transmit certified copies to the Governments.

ARTICLE XVI

AMENDMENTS

1. Consultations in respect of any amendment to this Protocol may be initiated either by the Government or the Registrar.

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2. Amendments shall enter into force upon their acceptance by all of the Contracting Parties.

ARTICLE XVII

DEPOSITARY

This Protocol and any amendment thereto shall be deposited with the Secretary-General who shall transmit certified copies thereof to the Contracting Parties.

ARTICLE XVIII

IMPLEMENTATION

Each Contracting Party shall promptly inform the Conference of the action which it has taken to make effective the provisions of this Protocol in its territory.

ARTICLE XIX

WITHDRAWAL

1. A Contracting Party which withdraws from the Agreement, may also withdraw from this Protocol by giving notice in writing to the Depository who shall promptly notify the other Contracting Parties accordingly.

2. Withdrawal shall take effect five years after the date on which the notice was received by the Depository, unless the Contracting Party before the withdrawal becomes effective notifies the Depository in writing of the cancellation of its notice of withdrawal.

3. A Contracting Party withdrawing from this Protocol shall honour all obligations assumed by it before the effective date of its withdrawal.

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

Done aton the..... day of 2003

Signed by for the Government of Antigua and Barbuda on the day of
2003 at

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Signed by for the Government of Barbados on the *day of*
2003 at

Signed by for the Government of Belize on the *day of*
2003 at

Signed by for the Government of the Commonwealth of Dominica on the
day of *2003* *at*

Signed by for the Government of Grenada on the *day of*
2003 at

Signed by for the Government of the Co operative Republic of Guyana on the
day of *2003* *at*

Signed by for the Government of Jamaica on the *day of*
2003 at

Signed by for the Government of Montserrat on the *day of*
2003 at

Signed by for the Government of St. Kitts and Nevis on the *day of*
2003 at

Signed by for the Government of Saint Lucia on the *day of*
2003 at

Signed by for the Government of St. Vincent and the Grenadines on the
day of *2003* *at*

Signed by for the Government of The Republic of Suriname on the
day of *2003* *at*

Signed by for the Government of The Republic of Trinidad and Tobago on the
day of *2003* *at*

FOURTH SCHEDULE

(Section 2)

**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;

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“**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. Each original Member 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

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(b) which accedes to this Agreement within such period as may be determined by the Members,

shall, contribute upon the entry into force of this Agreement, contribute or cause to be contributed to the Fund the amount of the initial capital of the Fund expressed in represented by the scale of contributions set out in the Annex. to this Agreement.

4. Each Member 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.

10. For the purpose of this Article “original Member” means a State or territory of the Caribbean Community which was a Member on the date this Agreement entered into force.

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:

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- (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.

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6. A trustee may resign by transmitting a written notice in that behalf to the Chairman of the

7. 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:

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- (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, the status, immunities and privileges provided in this Article shall be accorded to the Fund in the territories 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 mentioned 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 Member State or Territory on the thirtieth day following the date on which its instrument of accession was deposited with the Depositary.

2. Where any 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 to reflect such accession and undertaking accordingly.

No. 5] *Caribbean Court of Justice* [2005.
(Agreement) (Amendment) Act

Signed by
for the Government of Grenada on the day
of 200 at

Signed by
for the Government of the Co-operative Republic of Guyana on the day
of 200 at

Signed by
for the Government of the Republic of Haiti on the day
of 200 at

Signed by
for the Government of Jamaica on the day
of 200 at

Signed by
for the Government of Montserrat on the day
of 200 at

Signed by
for the Government of St. Kitts and Nevis on the day
of 200 at

Signed by
for the Government of Saint Lucia on the day
of 200 at

Signed by
for the Government of St. Vincent and the Grenadines on the day
of 200 at

Signed by
for the Government of the Republic of Suriname on the day
of 200 at

Signed by

No. 5] *Caribbean Court of Justice* [2005.
(Agreement) (Amendment) Act
 for the Government of the Republic of Trinidad and Tobago on the day of
 200 at

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.?"

Passed in the House of Assembly this 2nd day of November, 2004.

J. BADEN ALLAIN,
Speaker of the House of Assembly.

Passed in the Senate this 18th day of November, 2004.

HILFORD DETERVILLE,
President of the Senate.