

**PROTOCOL  
ON THE  
PRIVILEGES AND IMMUNITIES  
OF THE  
COMPETITION COMMISSION**

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OF THE COMPETITION COMMISSION**

**PREAMBLE**

**Whereas** Article 171 of the Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy establishes the Competition Commission;

**And Whereas** the Member States at the Tenth Special Meeting of the Conference of Heads of Government held on the 8<sup>th</sup> to the 9<sup>th</sup> day of November 2004 in Port of Spain, Trinidad and Tobago decided that the Seat of the Commission shall be in Paramaribo, the Republic of Suriname;

**And Whereas** in order to protect the independence and impartiality of the Commissioners and officers of the Commission it is necessary that privileges and immunities are recognised and granted by the Governments of the Contracting States;

**And Whereas** the Contracting Parties to this Protocol are desirous of establishing conditions to safeguard the independence and integrity of the Commissioners and officers of the Commission;

**The Parties** to this Protocol agree as follows:

**ARTICLE I**  
**INTERPRETATION**

In this Agreement, unless the context otherwise requires:

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

**"Chairperson"** means the Chairperson of the Commission;

**"Commission"** means the Competition Commission established by Article 171 of the Treaty;

**"Commissioner"** means a person appointed as a member of the Commission under Article 172 of the Treaty;

**"Competent Authorities"** means the national authorities of the Contracting States;

**"Conference"** means the Conference of Heads of Government of Member States of the Community established by Article 10 of the Treaty;

**"Counsel"** means a person qualified to conduct proceedings before the national courts of any Contracting State;

**"Government"** means the Government of the Republic of Suriname;

**"officers"** means the members of staff so designated by the Chairperson of the Commission;

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

**"Registrar"** means the Registrar of the Commission;

**"Secretary-General"** means the Secretary-General of the Caribbean Community; and

**"Treaty"** means the Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy signed at Nassau, The Bahamas on 5 July 2001.

## **- ARTICLE II**

### **STATUS OF THE COMMISSION**

1. The Commission shall possess full juridical personality and, in particular, full capacity to:

- (a) acquire and dispose of immovable and movable property;
- (b) contract; and
- (c) institute legal proceedings.

*Handwritten note:* New clause to be inserted

2. In all legal proceedings the Commission shall be represented by the Registrar.

**ARTICLE III**

**PROPERTY FUNDS AND ASSETS OF THE COMMISSION**

1. The Commission, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except or in so far as in any particular case where the Chairperson has expressly waived its immunity. A waiver of immunity shall not extend to any measure of execution.

2. Save as otherwise provided in paragraph 1 of this Article the property of 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 IV**

**PREMISES OF THE COMMISSION**

1. The premises occupied by the Commission with the consent of the Government shall be inviolable.

2. The Chairperson may make regulations relating to the premises mentioned in paragraph 1 for the purpose of establishing therein conditions necessary for the full execution of the functions of the Commission.

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 Registrar. 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 Registrar to enter onto the premises by the officials of the Government shall be presumed.

*Handwritten note:* this need to be changed

**ARTICLE V**  
**ARCHIVES OF THE COMMISSION**

The archives of the Commission shall be inviolable wherever located.

**ARTICLE VI**  
**EXEMPTION FROM FOREIGN EXCHANGE CONTROLS**

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Commission shall be entitled in all Contracting States to do the following for its official use only:

- (a) convert any currency held by it into any other currency;
- (b) freely transfer its funds and securities;
- (c) operate foreign currency accounts and external accounts; and
- (d) purchase from authorised dealers and hold and make use of funds and securities.

The Commission, in exercising its rights under paragraph 1, shall pay due regard to any representations made by the Government of any Contracting State and shall give effect to the representations made to the extent that the representations may be acted upon without detriment to the interests of the Commission.

**ARTICLE VII**  
**EXEMPTION FROM TAXES, CUSTOMS DUTIES AND**  
**IMPORT OR EXPORT DUTIES**

1. In all Contracting States the Commission shall be exempt from:
- (a) any form of direct or indirect taxation but the Commission will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

- (b) customs duties and from prohibitions and restrictions on imports in respect of articles imported or exported for its official use, subject to the condition that articles imported under such exemption shall not be sold within the territory of the Contracting State except under conditions agreed to between the Chairperson and the Government of the Contracting State; and
- (c) customs duties and other levies, prohibitions and restrictions in respect of the import, sale or export of its publications,
- \* 2. For the purpose of this Article, indirect taxation means airport departure or travel tax, travel ticket tax, hotel and restaurant tax, customs and excise duties, consumption tax, stamp duties, withholding tax on interest, value added tax, finance charges and imposts with equivalent effect.

**ARTICLE VIII**  
**FACILITIES IN RESPECT OF COMMUNICATIONS**

1. The Commission shall enjoy in the territory of every Contracting State, for its official communications, treatment not less favourable than that accorded by the Government of the Contracting State to any international organisation.
2. The Commission shall be immune from censorship of its official correspondence and official communications.
3. The Commission shall have the right to use codes and to despatch and receive correspondence by courier in sealed bags, which shall have the same immunities and privilèges as diplomatic couriers and bags.
4. This Article shall not preclude the adoption of appropriate security measures in the interest of the Government of any Contracting State.

**ARTICLE IX**  
**COMMISSIONERS AND OFFICERS**  
**OF THE COMMISSION**

1. Commissioners and officers engaged in the business of the Commission in the territory of any Contracting State shall enjoy:

- (a) exemption from any form of direct taxation on allowances, remuneration and salaries paid by 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 that State except under conditions determined by its Government;
- (b) exemption from immigration restrictions;
- (c) immunity from inspection and seizure of personal and official baggage, except in cases *in flagrante delicto*. In such cases, the competent authorities shall immediately inform the Registrar or other appropriate officer of the Commission. 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;
- (d) immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity and the immunity shall continue notwithstanding that the persons concerned have ceased to exercise their functions with the Commission;
- (e) immunity from arrest or detention in relation to acts performed by them in their official capacity;
- (f) inviolability of all papers, documents and materials related to the work of the Commission;
- (g) for the purpose of all communications with the Commission the right to use codes to despatch or receive papers, correspondence or other official material by courier or in sealed bags;

- (h) the same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments of comparable rank; and
  - (i) the same protection and repatriation facilities in times of international crisis as are accorded to representatives of foreign Governments of comparable rank.
2. Paragraphs (a), (b), (h) and (i) do not apply to any officer in the Member State of which he is permanently resident or a citizen.

**ARTICLE X**  
**COUNSEL AND OTHER PERSONS APPEARING**  
**IN PROCEEDINGS BEFORE THE COMMISSION**

1. Counsel and other persons appearing in proceedings before the Commission shall enjoy in relation to the performance of their functions connected with the proceedings:
- (a) immunity from arrest or detention in relation to words spoken or written or acts performed by them in proceedings before the Commission; and
  - (b) inviolability of all papers, documents and materials relating to the proceedings before the Commission.
2. The persons referred to in paragraph 1 shall enjoy immunity from legal process in respect of words spoken or written and all acts done by them in the conduct of proceedings before the Commission. This immunity shall continue although the person entitled is no longer conducting proceedings before the Commission.
3. The privileges, immunities and facilities mentioned in this Article are only intended to assist Counsel and other persons appearing in proceedings before the Commission and shall not be employed to circumvent applicable laws and regulations of the Government of the State where the proceedings are conducted.



**ARTICLE XI****CO-OPERATION WITH COMPETENT AUTHORITIES**

1. Privileges and immunities are recognised and granted by this Protocol in the interest of the Commission and not for the personal benefit of persons entitled thereto. The Conference in the case of the Chairperson and the Chairperson in the case of other persons entitled thereto, shall have the right to waive the 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 Commission.
2. The Chairperson and the Registrar 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 of any Contracting State and 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 the privileges and immunities to respect the laws and regulations of the Government of every Contracting State and not to interfere in the internal affairs of its Government.
4. Where the Government of a Contracting State has reasonable grounds to believe that an abuse has occurred in the enjoyment of any privilege or immunity conferred by this Protocol, at the request of that Government, the Registrar shall consult with the competent authorities to determine whether the abuse has occurred. Where the consultations prove inconclusive the issues shall be settled in accordance with the procedure laid down in Article XIII.

**ARTICLE XII****FACILITATION OF TRAVEL**

1. Subject to the laws or regulations restricting entry or movement for reasons of national security, the Government of every Contracting State shall not hinder the entry into, passage within and departure from its territory of:

- (a) Commissioners and members of their families forming part of their household;
  - (b) counsel and their clients appearing in proceedings before the Commission;
  - (c) officers of the Commission and members of their families forming part of their household; and
  - (d) persons other than officers of the Commission performing missions for the Commission and members of their families forming part of their household.
2. The Registrar shall give in advance written notification to the Government of any Contracting State the names of the persons listed in paragraph 1.
3. This Article shall not be applicable in case of a general interruption of transportation and shall not impede the effective application of laws dealing with quarantine and health issues.
4. Visas required by persons listed in paragraph 1 shall be processed by the Government of any Contracting State expeditiously.

**ARTICLE XIII**  
**SETTLEMENT OF DISPUTES**

1. The Chairperson shall make appropriate provisions for the settlement of any dispute:
- (a) of a private law character to which the Commission; or
  - (b) to which a Commissioner, officer of the Commission or Counsel conducting proceedings before the Commission;
- is a party.
2. Paragraph 1 (b) does not apply where immunity has been waived.

**ARTICLE XIV**  
**ARBITRATION**

1. Any difference between the Government of a Contracting State and the Commission arising out of the interpretation or application of this Protocol, which is not settled by negotiation or other agreed mode of settlement shall be referred for final decision to an arbitral tribunal of three arbitrators at the instance of either party.
2. Each party shall be entitled to appoint one arbitrator within fifteen days following the request of either party and the two arbitrators shall within fifteen days following the date of their appointments appoint a third arbitrator who shall be the Chairperson of this Tribunal.
3. Where any party fails to appoint an arbitrator under paragraph 2 the other party may request the President of the Caribbean Court of Justice to appoint an arbitrator within ten days.
4. Where the two arbitrators appointed under paragraph 2 or 3 fail to appoint a third arbitrator either party may request the President of the Caribbean Court of Justice to appoint an arbitrator within ten days.
5. The arbitral tribunal shall establish its own rules of procedure.

**ARTICLE XV**  
**ENTRY INTO FORCE**

This Protocol and any agreement supplementary thereto shall enter into force immediately upon signature by representatives of the Government of three Contracting States and the Caribbean Community.

**ARTICLE XVI**  
**AMENDMENT**

1. Consultations in respect of any amendment to this Protocol may be initiated by the Government of any Contracting State or the Registrar.
2. An amendment to this Protocol shall enter into force on its acceptance by all Parties to this Protocol.

**ARTICLE XVII**  
**DEPOSITARY**

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

**ARTICLE XVIII**  
**IMPLEMENTATION**

Each Contracting State to this Protocol shall promptly notify the Secretary-General of the action which it has taken to make effective the provisions of this Protocol in its territory.

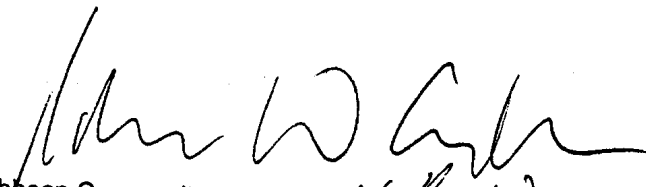
**ARTICLE XIX**  
**ACCESSION**

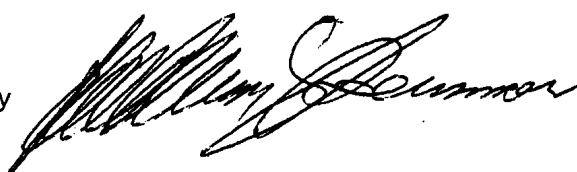
1. After the entry into force of this Protocol any State or Territory of the Caribbean other than those listed in the **Annex** to this Protocol may, if Conference so determines, accede to this Protocol.
2. Accession may be on such terms and conditions as Conference decides and shall take effect one month following the deposit of the Instrument of Accession with the Secretary-General.

**ARTICLE XX**  
**WITHDRAWAL**


1. Any Party to this Protocol may withdraw therefrom by giving notice in writing to the Secretary-General.
2. Notices of withdrawal shall take effect one year after being communicated to the Secretary-General. A Contracting State withdrawing from this Protocol shall honour all obligations assumed by it before the effective date of its withdrawal.

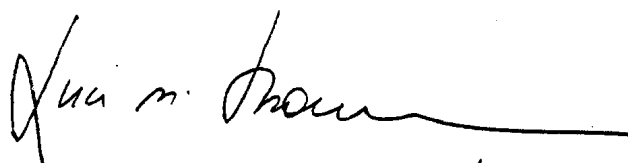
IN WITNESS WHEREOF the undermentioned representatives duly authorised execute this Protocol.


Signed  by  
for the Caribbean Community on the 16<sup>th</sup> November 2007  
at BRIDGETOWN, BARBADOS

Signed by   
for the Government of Antigua and Barbuda on the 12<sup>th</sup>  
February, 2007  
at Kingstown, ST. Vincent

Signed by  
for the Government of The Bahamas on the  
at

Signed by   
for the Government of Barbados on the 12<sup>th</sup> February, 2007  
at Kingstown, ST. Vincent

Signed by   
for the Government of Belize on the 16<sup>th</sup> NOVEMBER 2007  
at GEORGETOWN, GUYANA

Signed by 

for the Government of the Commonwealth of Dominica on the 15<sup>th</sup> of September 2007

at PORTS OF SPAIN, TRINIDAD

Signed by 

for the Government of Grenada on the 12<sup>th</sup> of February 2007

at KINGSTON, ST. VINCENT.

Signed by 


for the Government of the Co-operative Republic of Guyana on the 12<sup>th</sup> of February 2007

at Kingstown, St Vincent & the Grenadines

Signed by


for the Government of the Republic of Haiti on the

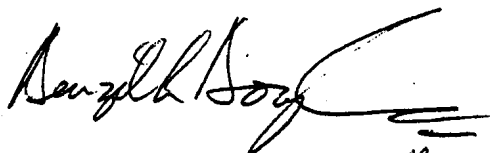
at

Signed by 

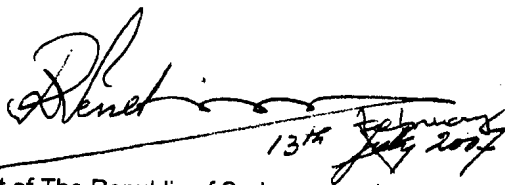
for the Government of Jamaica on the Nov. 15<sup>th</sup> 2007

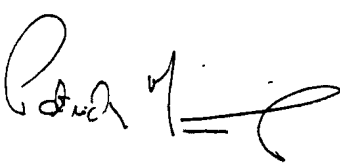
at GEORGETOWN GUYANA

Signed by   
for the Government of Saint Lucia on the 22<sup>nd</sup> July 2007  
at Kingston & Nevis

Signed by   
for the Government of St. Kitts and Nevis on the 15<sup>th</sup> SEPT. 2007  
at TRINIDAD & TOBAGO

Signed by Ralph Bransford  
for the Government of St. Vincent and the Grenadines on the 14<sup>th</sup> February 2007  
at Kingstown, St. Vincent and the Grenadines

Signed by   
for the Government of The Republic of Suriname on the 13<sup>th</sup> February 2007  
at Kingstown, St. Vincent

Signed by   
for the Government of The Republic of Trinidad and Tobago on the 12<sup>R</sup> February 2007  
at Kingstown, St. Vincent and the Grenadines

**Annex**

1. Antigua and Barbuda
2. The Bahamas
3. Barbados
4. Belize
5. Commonwealth of Dominica
6. Grenada
7. Cooperative Republic of Guyana
8. Republic of Haiti
9. Jamaica
10. Saint Lucia
11. St. Kitts and Nevis
12. St. Vincent and the Grenadines
13. Republic of Suriname
14. Republic of Trinidad and Tobago