

AGREEMENT
BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF SURINAME
AND THE
CARIBBEAN COMMUNITY
ESTABLISHING THE SEAT
AND THE OFFICE OF THE
COMPETITION COMMISSION

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SURINAME AND THE CARIBBEAN COMMUNITY ESTABLISHING THE
SEAT AND THE OFFICE 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, hereinafter referred to as the "Treaty" establishes the Competition Commission;

And Whereas in order to achieve the objectives of the Community Competition Policy the Community shall establish institutional arrangements to prohibit and penalize anti-competitive business conduct;

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

And Whereas to ensure the proper functioning of the Commission it is necessary to grant privileges and immunities to the Commissioners and Officers of the Commission to protect their independence and impartiality;

The Parties hereto have agreed as follows:

ARTICLE I
USE OF TERMS

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 under Article 171 of the Treaty;

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

"competent authority" means the national authorities of the Republic Suriname;

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

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

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

"office" means the office provided by the Government in accordance with Article III paragraph 1 of this Agreement and occupied by the Commission for its official use;

"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;

"Seat of the Commission" means the premises provided by the Government in accordance with Article III paragraph 1 of this Agreement and occupied by the Commission for its official use; 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.

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

ARTICLE III

THE SEAT AND OFFICE OF THE COMMISSION

1. The Seat and office of the Commission shall be in the premises allocated by the Government for that purpose.

2. The Chairperson shall have the power to make regulations operative within the Seat and the office of the Commission for the purpose of establishing therein conditions necessary for the full execution of the functions of the Commission which shall be implemented through the Registrar.

3. The Seat and office of the Commission shall be inviolable and shall be under the authority of the Chairperson in accordance with this Agreement.

4. Officials of the Government shall not enter the Seat or office of the Commission to perform any official duties therein except with the consent of and under conditions agreed by the Registrar. However, in the 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 gain entry to the Seat or office of the Commission by the officials of the Government shall be deemed to have been given.

5. The service of legal process may take place within the Seat or the office of the Commission only with the consent of and under the conditions approved by the Registrar.

6. The Chairperson shall not permit the Seat or the office of the Commission to become a refuge either for fugitives from justice or for persons who are endeavouring to avoid service of legal process or judicial proceedings under the laws of the Republic of Suriname or against whom an order of extradition or deportation has been made by the competent authorities.

7. The Registrar may refuse entry to or reject persons from the Seat or the office of the Commission for violation of its regulations or for any other reasonable cause.

ARTICLE IV

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 or by whomsoever held, shall be immune from search, acquisition, confiscation, expropriation and any other form of interference, whether by executive, administrative or judicial action.

3. This Article shall not be construed as preventing the Government from taking appropriate action in connection with the investigation of accidents involving motor vehicles belonging to or operated on behalf of the Commission.

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 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.

2. The Commission, in executing its rights under paragraph 1, shall pay due regard to any representations made by the Government and shall give effect to those representations to the extent that the representations may be taken into account without detriment to the interests of the Commission.

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

1. 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, 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 Republic of Suriname except under conditions agreed to between the Chairperson and the Government;

- (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 tax, consumption tax, customs and excise duties, hotel tax, restaurant tax, stamp duties, travel tax, travel ticket tax, value added tax, withholding tax on interest, finance charges and imposts with equivalent effect.

ARTICLE VIII

FACILITIES IN RESPECT OF COMMUNICATIONS

1. The Commission shall enjoy in the Republic of Suriname, freedom of communication for its official communications.
2. The official correspondence and all other forms of official communications shall be inviolable.
3. The Commission shall have the right to use codes and to despatch and receive correspondence by courier in sealed bags, which shall not be searched or detained unless the competent authorities have reasonable grounds to believe that the sealed bags do not only contain articles, correspondence or documents for the exclusive official use of the Commission, in which case the bag shall be opened only in the presence of an officer of the Commission.
4. This Article shall not preclude the adoption of appropriate security measures in the interest of the Government and the Republic of Suriname.

ARTICLE IX

COMMISSIONERS AND OFFICERS OF THE COMMISSION

1. Commissioners and officers of the Commission shall when engaged in the business of the Commission in the Republic of Suriname 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 the Republic of Suriname except under conditions determined by the Government;

- (b) exemption from immigration restrictions and national service obligations;
- (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 materials 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 national 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 who is permanently resident in, or a citizen of the Republic of Suriname.

ARTICLE X

COUNSEL AND OTHER PERSONS APPEARING IN PROCEEDINGS BEFORE THE COMMISSION

1. Counsel and other persons appearing in proceedings before the Commission while present in the Republic of Suriname shall, in the performance of their functions connected with those proceedings, enjoy:

- (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 documents, materials and papers relating to the proceedings before the Commission.

2. Persons mentioned in paragraph 1 shall enjoy immunity from legal process in respect of words written or spoken and all acts performed 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 in proceedings before the Commission and shall not be employed to circumvent the applicable laws and regulations of the Republic of Suriname.

ARTICLE XI

CO-OPERATION WITH COMPETENT AUTHORITIES

1. Privileges and immunities are recognised and granted by this Agreement 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 and avoid the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

3. Without prejudice to the privileges and immunities accorded by this Agreement, it is the duty of all persons enjoying those privileges and immunities to respect the laws and regulations of the Republic of Suriname.

4. Where the Government has reasonable grounds to believe that an abuse has occurred in the enjoyment of any privilege or immunity conferred by this Agreement, at the request of the 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 XIV.

ARTICLE XII

FACILITATION OF TRAVEL

1. Subject to the laws or regulations restricting entry or movement for reasons of national security, the Government shall not hinder the entry into, passage within and departure from the Republic of Suriname 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;
- (d) persons other than officers of the Commission performing missions for the Commission and members of their families forming part of their household; and

- (e) other persons invited to the Seat of the Commission or office of the Commission on official business.

2. The Registrar shall give in advance written notification to the Government of the names of the persons listed in paragraph 1.

3. This Article shall not be applicable in the case of a general interruption of transportation and shall not impede the effective application of laws in force dealing with quarantine and health issues.

4. Visas required by persons listed in paragraph 1 shall be processed 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 and the Commission arising out of the interpretation or application of this Agreement, 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 the arbitral 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 Agreement and any agreement supplementary thereto shall enter into force immediately upon signature.

ARTICLE XVI **AMENDMENT**

1. Consultations in respect of any amendment to this Agreement may be initiated either by the Government or the Caribbean Community.
2. An amendment to this Agreement shall enter into force on its acceptance by both parties to this Agreement.

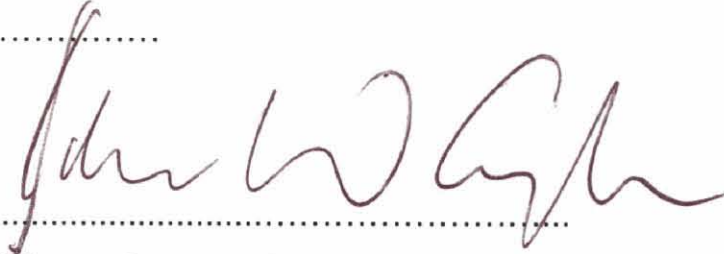
ARTICLE XVII **TERMINATION**

This Agreement shall cease to have effect six months after either Party gives notice in writing to the other of its decision to terminate this Agreement.

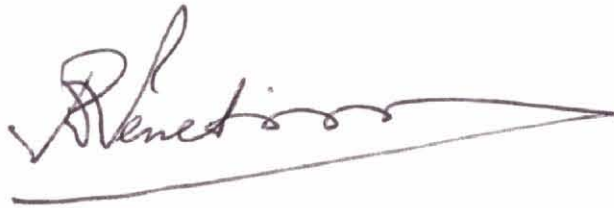
IN WITNESS WHEREOF the representatives of the Government of the Republic of Suriname and the Caribbean Community being duly authorised in that behalf execute this Agreement.

Done at ST VINCENT AND on the 13th day of FEBRUARY
THE GRENADINES

2007.....



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For the Caribbean Community



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For the Government of the Republic of Suriname