



Message From The President



The Right Honourable
Mr. Justice Michael de la Bastide T.C.

This is the third Annual Report of the Caribbean Court of Justice to which I have had the honour of introducing the reader. The period covered by this report is from the 1st August, 2007 to the 31st July, 2008. This was a period of consolidation and growth for the Court.

Probably the most significant event during the period under review was the filing of the first case in the original jurisdiction of the Court. In my introduction to the last Annual Report I suggested that the inactivity in our original jurisdiction was due to “a lack of awareness among the business and legal communities of the region of the right of private entities and individuals to access the Court directly”. It would seem that that awareness is no longer lacking. On the 3rd April, 2008, Trinidad Cement Limited and TCL Guyana Incorporated filed proceedings against the Co-operative Republic of Guyana at the Seat of the Court in Port of Spain. The first step was an application for leave by the claimants to bring the proceedings and by an Interim Ruling given by the Court on the 22nd July, 2008, the Court invited the Community and the Contracting Parties (other than Guyana) to file written submissions on two preliminary issues identified and formulated by the Court. The second case to be filed in the original jurisdiction was not long in coming. This was an application filed in Barbados on the 4th July, 2008, for leave to bring proceedings against the Caribbean Centre for Development Administration (CARICAD) and the administrative head of that organisation. The application was filed by a former employee of CARICAD’s whose employment had been terminated on the ground of redundancy. These two matters were still in the case management stage at the end of the period under review.



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On the appellate side, Barbados and Guyana continued to be the only CARICOM States to adopt the CCJ as their final court of appeal. Numerically the preponderance of appeals came from Guyana. Some of the Guyana appeals raised important and interesting questions of how to interpret and apply the statutory provisions which create a mix of Roman Dutch law and English common law in the real property law of Guyana. During the period under review the Court delivered seven judgments of which six were subsequently reported in the series of law reports known as the West Indian Reports' published by Butterworths of London.

There were substantial amendments of the Caribbean Court of Justice (Appellate Jurisdiction) Rules made by the President and Judges of the Court on the 1st April, 2008. The procedure for obtaining leave and special leave to appeal to the CCJ was substantially altered and certain monetary limits governing the grant of leave to appeal as a poor person and the amount of security for costs that an appellant may be ordered to provide, were fixed by Schedules in the currency of the country from which the appeal comes.

An important development was the grant subject to certain conditions and limitations of a discretionary power to the Regional Judicial and Legal Services Commission (RJLSC) to extend the tenure of a Judge of the Court beyond the normal retirement age of 72 to age 75. This was the effect of a Protocol to the Agreement Establishing the Court which was signed by all the Contracting Parties and came into force on the 7th June, 2007. This discretion to extend tenure will not be available once the full complement of nine Judges (not counting the President) has been appointed, and in the case of the President, his tenure may not be extended beyond seven years in total. This Protocol was one of three Protocols to the Agreement Establishing the Court that were incorporated into the domestic law of Guyana by the Protocols to the Agreement Establishing the Caribbean Court of Justice Act, 2007, which was assented to on the 31st December, 2007. At the end of the period under review similar legislation had not yet been passed in Barbados, but I am happy to report that that omission has recently been corrected. In exercise of the power of extension conferred on it by the Protocol and retroactively by the enactments in Guyana and Barbados, the RJLSC extended the tenure in office of Justice Duke Pollard to age 75, thus preserving the Court's access to his expertise for an additional three years.

Another event of importance to the Court was the signing on the 17th August, 2007, of the European Commission – CARIFORUM Financing Agreement for institutional support and capacity building of the Court. Under this agreement a grant of one million three hundred and fifteen thousand euros (1,315,000) will be made available to the Court to be applied by it to assist in meeting certain approved heads of expenditure. Preparatory work for the first draw-down was still in progress at the end of the period under review.

One loose end which was tied up was the passing of the Caribbean Court of Justice (Headquarters) Act, by the Parliament of Trinidad and Tobago. This Act was assented to on the 27th May, 2008, and incorporates in the domestic law of Trinidad and Tobago the Headquarters Agreement which was signed between the Court and the Government of Trinidad and Tobago pursuant to the decision to locate the Seat of the Court in Port-of-Spain. What was disturbing about the debate on the Bill in the Senate was that it revealed how many misconceptions about the Court are still prevalent even in the country in which its Seat is located, notwithstanding our best efforts at public education. At times there seems almost to be a resistance to the information which we put out.



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The ignorance of the general public in Trinidad and Tobago about the Court and the work it has been doing, is no doubt due to a large extent to the difficulty we have experienced in getting the local media to take an interest in and to report cases which the Court hears, the judgments which it delivers and the educational activities in which its Judges, officers and staff engage. We can take comfort in the fact that other courts in the region have recognised that the Court has something to offer by way of technical assistance. In the period April to May, 2008, we were visited by delegations from the Judiciaries of Jamaica and Belize respectively on what were described as “study tours”.

The Court also visited Belize in June 2008 and held a very successful seminar there, the theme of which was “CCJ and the CSME Vehicles for Regional Unity What does it Mean for You and Me?”

I think it would be remiss of me to close without recording my keen appreciation of the very high level of competence and dedication brought to the performance of their respective duties by both the Judges of the Court as well as the senior administrative and technical officers of the Court. In fact I consider that this tribute should be extended to every cadre of staff employed by the Court. I take this opportunity of acknowledging and congratulating them on their contribution to the successful operation of the Court.

Michael de la Bastide
President